

OFFICIAL INFORMATIONCONFIDENTIAL**EVIDENCE CODE SECTION 1040
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: November 5, 2020

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: OFFICER-INVOLVED SHOOTING 001-20 FOR 11/10/20 CLOSED-SESSION AGENDA

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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Hollenbeck	1/5/20	00:12 a.m.		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Rivas, G./PO II	5 years, 5 months
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Total Involved Officer(s)

1 x PO II
1 x PO I

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Julio Rafael Rodriguez: Male Hispanic, 23 years of age.

COP Recommendations

Tactics – Administrative Disapproval, Officers Rivas and Rodriguez.

Drawing/Exhibiting – In Policy, No Further Action, Officers Rivas and Rodriguez.

Lethal Use of Force – In Policy, No Further Action, Officer Rivas.

IG Recommendations

Tactics – Same as COP.

Drawing/Exhibiting – Same as COP.

Lethal Use of Force – *Out of Policy, Officer Rivas.*

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INVESTIGATION

Annotated Force Investigation Division (FID) Incident Summary¹

Synopsis

On Sunday, January 5, 2020, at approximately 0009 hours, Northeast Patrol Division officers conducted a pedestrian stop for a narcotics investigation.

OIG Note No. 1: *Although the officers involved in this incident were working Northeast Patrol Division, the pedestrian stop that they initiated occurred in Hollenbeck Area.*

As the officers-initiated contact with the suspect, a foot pursuit ensued. At the termination of the foot pursuit the suspect removed a semi-automatic pistol from his waistband area and an officer involved shooting occurred.

Investigative Summary

On January 4, 2020, at 2237 hours, security cameras at the Neighborhood Market, located at 4300 Griffin Avenue and at American Motors Trends, located at 4236 Griffin Avenue, recorded Julio Rodriguez' activities near the intersection of Avenue 43 and Griffin Avenue for an approximately one hours and thirty-minute time span. Julio Rodriguez was accompanied by an unidentified male Hispanic, wearing a light-colored hoodie and dark shorts and a female Hispanic, wearing a plaid jacket and dark pants.

OIG Note No. 2: *The female accompanying Julio Rodriguez was not identified.*

During that time, all three stood near the front of the market and the northeast corner of Avenue 43 and Griffin Avenue. Their attention appeared to be focused on the vehicle and pedestrian movement in the area, as they paced about the area and repeatedly looked up and down the streets.

While they were at the location several people approached them, made brief contact with them and then left the area. During the contacts, the Hispanic male with the hoodie, walked to positions east of the market on Avenue 43, out of view of the security cameras in the area. Occasionally, Julio Rodriguez made hand gestures directed at the occupants of vehicles driving past his location (Investigators Note No. 1).

¹ The Incident Summary presented here is reproduced from FID's report regarding this case, and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

At approximately 2339 hour, a white four door hatchback vehicle arrived in front of the market, the male and female entered the vehicle and left the area. Julio Rodriguez remained in front of the market and near the northeast corner of the intersection for approximately five minutes.

At 2344 hours, Rodriguez entered the gate of 4302 Griffin Avenue and took a seat on the sidewalk steps in front of the location. Between 2344 hours and 0006 hours, the light from Rodriguez' cell phone screen is intermittently visible on the video from the market's security camera as Rodriguez used the phone while he sat on the steps.

Northeast Patrol Division, uniformed Police Officer II Gabriel Rivas, Serial No. 41657 (driver) and Police Officer I Andrew Rodriguez, Serial No. 43818 (passenger), were assigned to Unit 11A37, Watch Three.² Officers Rivas and Rodriguez had work as partners on two occasions during the past three months. According to Officers Rivas, at the start of watch, they discussed tactics, contact and cover roles, the foot pursuits concepts of apprehension versus containment, communication roles and Directive No. 16, de-escalation techniques.³

According to Officer Rodriguez, at the start of watch, they discussed tactics, the firearms they were carrying, lethal and less lethal weapons, the foot pursuit concepts of containment mode and apprehension mode and Code Six broadcasts.⁴

On January 5, 2020, at approximately 0001 hours, Officer Rivas viewed a video from a mobile app on his personal cellular telephone. The video was posted on the Instagram social media website.⁵ According to Officer Rivas, he maintains a fictitious Instagram

² Officer Rivas, five years and five months, with the Department, 29 years of age, 5 feet 8 inches tall, 160 pounds. Officer Rodriguez, one year and two months, with the Department, 22 years of age, 6 feet tall, 170 pounds. Officers Rivas and Rodriguez were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, ASP batons, canisters of Oleoresin Capsicum (OC) spray and flashlights attached to their Sam Browne equipment belts. Officer Rodriguez had a Hobble Restraint Devices (HRD) on his person. Both officers were carrying back-up firearms on their person. The officers were equipped with their Body Worn Video (BWV) cameras. The officers were in a marked black and white police SUV, Shop No. 80516, equipped with emergency equipment and a Digital In-Car Video System (DICVS). The officers had side-handled batons and a beanbag shotgun stored inside their police vehicle.

³ Officer Rivas, 1st Interview, Page 14, Lines 12-21.

⁴ Officer Rodriguez, 1st Interview, Page 10, Lines 1-25 and Page 11, Lines 1-3.

⁵ Instagram is a free, online photo-sharing application (app) and social network platform that was acquired by Facebook© in 2012. Instagram allows users to edit and upload photos and short videos through a mobile app. Users can add a caption to each of their posts and use hashtags and locations-based geotags to index these posts and make them searchable by other users within the app. Each post by a user appears on their followers' Instagram feeds and can also be viewed by the public when tagged using hashtags or geotags. Users also have the option of making their profile private so that only their followers can view their profiles. <https://searchcio.techtarget.com/definition/Instagram>

profile to monitor gang activity and for crime prevention in the communities located within the Northeast area⁶ (Investigators Note No. 2).

The video was approximately nine seconds long and the Instagram user profile displayed on the post was “sanchez_lboy43.” According to Officer Rivas, he did not know who posted the video and he did not have any prior conversations with that person. The video depicted an individual from the chest down, seated on concrete steps behind a white rod iron fence adjacent to the street. As the video progressed that person raised his shirt, showing his waistband and exposing the grip and a portion of the slide of a semi-automatic pistol. The pistol was protruding from the persons’ right front pants pocket. The person then made a hand gesture with his fingers, in the shape of a lower case “a.” According to Officer Rivas, the hand gesture is consistent with an Avenues Gang hand sign. Simultaneously, animated text displayed the words “Savage” and “we’re the parks at?” As the video continued, it panned out past the fence toward the intersection of Griffin Avenue and Avenue 43 where the front of the 7 Days Market located at 4307 Griffin Avenue was visible in the background.

According to Officer Rivas, when he viewed the video, he recognized that it was taken from a position at an apartment complex near the intersection of Avenue 43 and Griffin Avenue. Officer Rivas stated, that he recognized the white fence in front of the apartment building and the liquor store across the street from the apartment building.⁷

Officer Rivas opined that the post was gang related due to the Instagram profile name “sanchez_lboy43,” having the numbers “43” in it and the location depicted in the video. According to Officer Rivas, based on his knowledge and experience with the Avenues Gang, it inferred that the person was affiliated with the Avenue 43 clique of the Avenues gang.⁸ The video was posted on the “Stories” feature of the Instagram application. And posts on the “Stories” feature are displayed for a 24-hour time frame. According to Officer Rivas, the time stamp displayed on the post, indicated that it had been posted approximately twelve minutes prior to his review⁹ (Investigators Note No. 3).

According to Officer Rivas, he told his partner about the Instagram post. They discussed the clothing that the person was wearing in the video and that he was possibly armed.¹⁰

OIG Note No. 3: According to Officer Rivas, “He [Julio Rodriguez] was sitting on steps. It looked like he was directly across a liquor store on the

⁶ Officer Rivas, 1st Interview, Page 5, Lines 19-24 and Officer Rivas, 2nd Interview, Page 6, Lines 8-15.

⁷ *Id.*, Page 16, Lines 11-18 and Page 33, Lines 20-23.

⁸ *Id.*, Page 11, Lines 7-10.

⁹ *Id.*, Page 6, Lines 7-9.

¹⁰ *Id.*, Page 6, Lines 10-18.

*northwest corner of Avenue 43 and Griffin, which would place him on the northeast corner. So I advised my partner. I think the [Instagram] post was about 12 minutes prior to us driving in that direction. I advised my partner. The post only showed a person. I couldn't tell if it was male or female, wearing a gray jacket and blue jeans. It was kind of like a pan of his clothing. We drove in that direction. I told my partner that in the video, it seemed that he had picked up his sweater and exposed a -- the handle of a handgun. And I let my partner know that the clothing description he had, and we made our way over there. I told my partner that he was inside -- or, yeah, within the gates of the apartment complex and that it would be difficult to come in contact with him, because he was on private property."*¹¹

Note: According to Officer Rodriguez, he saw Officer Rivas using an application on his phone and Officer Rivas then told him that there may be a person at Avenue 43 and Griffin Avenue armed with a gun.¹²

OIG Note No. 4: According to Officer Rodriguez, "As we were driving down Griffith Boulevard, my partner did mention -- we were discussing that we recognized the street, because up ahead was Avenue 43. This area seems to be high gang -- it's a high gang area."¹³ FID asked Officer Rodriguez whether his partner shared the information that he was viewing on his cell phone. Officer Rodriguez replied, "No. I just -- really I just kind of looked over to my left and saw him on his phone, you know, thumb scrolling. I didn't see what application it was open on. [...] But then shortly after that he did say, 'Hey, there might be someone in front of this liquor store. Just keep your eyes --' like a heads up pretty much."¹⁴

According to Officer Rivas, his intention was to drive to the area of Avenue 43 and Griffin Avenue to determine if he could identify the person depicted in the Instagram video. According to Officer Rivas, he did not request additional units to respond to look for the suspect, because "*I didn't consider that, just for the fact that the post was kind of late to me and that the possibility of him, you know, posting something like that and still being there was very slim.*"¹⁵ As they drove to the area, they talked about probable cause for contact with a person if they were to be located on private property.¹⁶

¹¹ *Id.*, Page 6, Lines 4-22.

¹² Officer Rodriguez, 2nd Interview, Page 5, Lines 19-24 and Page 18, Lines 5-10.

¹³ *Id.*, 1st Interview, Page 13, Lines 9-13.

¹⁴ *Id.*, 2nd Interview, Page 4, Line 23 to Page 5, Line 10.

¹⁵ Officer Rivas, 1st Interview, Page 17, Lines 9-13.

¹⁶ *Id.*, Page 15, Lines 20-25 and Page 16, Lines 1-16

According to Officer Rivas, he is familiar the area of Griffin Avenue and Avenue 43 and it is known for gang and narcotics activity.¹⁷ According to Officer Rodriguez, as they drove down Griffin Avenue toward the area they also talked about a gun arrest involving an Avenues gang member that Officer Rivas had made the week prior to this incident and a homicide that occurred at the intersection this past August.¹⁸

At 0008 hours, the Neighborhood Market CCTV camera captured a recording of a dark colored four door vehicle arriving in front of the market and stopping in the north bound traffic lane of Griffin Avenue. As Officers Rodriguez and Rivas drove south on Griffin Avenue toward Avenue 43, they observed Julio Rodriguez standing on the east side walk in front of 4302 Griffin Avenue.¹⁹ According to Officers Rivas and Rodriguez, Julio Rodriguez appeared to be talking to the occupant of a dark colored, vehicle that was stopped on Griffin Avenue, facing northbound in the traffic lane.

According to Officer Rivas, he smelled the odor of marijuana and he observed that Rodriguez appeared to be smoking marijuana and appeared to be a juvenile.

Officer Rivas opined that Rodriguez was in violation of curfew and smoking marijuana in public. According to Officer Rivas, he intended to detain Rodriguez for further investigation of the narcotics and curfew violations.²⁰

Note: Officer Rodriguez stated, that he and his partner intended to detain Rodriguez for investigation of possible narcotics transaction. According to Officer Rivas, he told Officer Rodriguez, he saw Julio Rodriguez smoking something that smelled like marijuana and they were going to talk to him.²¹

Officer Rivas stated that he did not immediately recognize that the clothing Rodriguez was wearing matched the clothing of the person depicted in the Instagram video post.²²

OIG Note No. 5: According to Officer Rivas, “I wasn’t too sure if it was the same individual we saw in the video.”²³ Later in his interview with FID, Officer Rivas stated that the clothing the suspect was wearing in the

¹⁷ *Id.*, Page 12, Lines 12-16.

¹⁸ Officer Rodriguez, 1st Interview, Page 13, Lines 9-22 and Page 14, Lines 1-2.

¹⁹ Julio Rodriguez, Male Hispanic, 23 years of age, brown hair and brown eyes. At the time of the incident he was 5 foot 6 inches tall and weighed 180 pounds.

²⁰ Officer Rivas, 1st Interview, Page 7, Lines 16-17.

²¹ *Id.*, Page 18, Lines 9-11.

²² *Id.*, Page 7, Lines 15-16.

²³ *Id.*, Page 7, Lines 15-16.

Instagram post, which he described as “a gray sweater and blue jeans”,²⁴ did match what Julio Rodriguez was wearing at the time of the pedestrian stop. However, Officer Rivas indicated that he was unsure whether Julio Rodriguez was the person he had seen in the Instagram video because of Julio Rodriguez’s “age and his appearance. He did not look like a gang member at all or the person -- the video that’s associating them self as an Avenues gang member.”²⁵

The OIG viewed the Instagram post and noted that the suspect depicted in it was wearing a black glove on his right hand. The suspect’s left hand was not visible in the video. The OIG reviewed Officer Rivas’s BWV and noted that when Julio Rodriguez was detained, he was wearing a black glove on his right hand and no glove on his left hand.²⁶ Officer Rivas did not mention this item of clothing during his interview with FID.

Officer Rivas observed that Rodriguez did not appear to be dressed down as a gang member or anything so his suspicion of him being armed was a little bit lower.²⁷



(Crime Scene Photograph No. K1521960)

²⁴ *Id.*, Page 34, Lines 24-25.

²⁵ *Id.*, Page 35, Lines 11-14.

²⁶ Officer Rivas’s BWV, 08:09:01Z – 08:09:45Z.

²⁷ Officer Rivas, 1st Interview, Page 7, Lines 20-22.

Officer Rivas stopped the police vehicle, facing south in the center median lane of Griffin Avenue. At 0009 hours, Officer Rivas exited the vehicle and activated his Body Worn Video (BWV) camera as he approached Rodriguez. As Officer Rodriguez exited the vehicle, he did not activate his BWV camera.

Note: Officers Rivas and Rodriguez did not broadcast that they were Code Six at that time and location.²⁸ According to Officer Rivas, when he and his partner discussed tactics at the start of their watch, they pre-planned that when one of them initiates contact with a suspect, it was the other officer's responsibility to make a Code Six broadcast.²⁹ According to Officer Rodriguez, he thought his partner placed them Code Six.³⁰

OIG Note No. 6: *According to Officer Rivas, "I did not [go Code Six] and I was not aware if my partner did or not."*³¹

According to Officers Rivas' BWV, the dark colored vehicle, backed up toward the curb, as Officer Rivas approached Julio Rodriguez. According to Officer Rodriguez, he followed behind Rivas and took a position on the sidewalk between Rivas and the vehicle in a position to monitor the vehicle and provide cover for his partner.³²

At 0009:12 hours, Officer Rivas' BWV camera captures Julio Rodriguez say, "do you mind if I smoke a cigarette?" Officer Rivas replied, "it smells like something else!"

OIG Note No. 7: *According to Officer Rivas, "I approached him. I asked him if he was smoking marijuana. He said that no, it was a cigarette."*³³ *Although the FID investigation did not specifically establish whether Julio Rodriguez had been smoking marijuana, no marijuana was booked into evidence in association with this incident.*

Officer Rivas asked Rodriguez if he was on probation or parole. Julio Rodriguez took a step toward Officer Rivas and extended his right hand toward him. According to Officer Rivas, he observed that Rodriguez had a bulge in his pants pocket. Officer Rivas asked Rodriguez what he had in his pocket, Rodriguez raise his hands up to his chest area and said, "Why, what do I have?" According to Officer Rivas, it was at that time that he

²⁸ Los Angeles Police Department Manual, Volume 4, Series 120.40 indicates when a unit is conducting a field investigation and no assistance is anticipated, a "Code Six" followed by the location shall be broadcast.

²⁹ Officer Rivas, 1st Interview, Page 18, Lines 1-7.

³⁰ Officer Rodriguez, 1st Interview, Page 26 Lines 11-25 and Page 27, Lines 1-2.

³¹ Officer Rivas, 1st Interview, Page 18, Lines 4-5.

³² *Id.*, Page 20, Lines 11-13 and Page 24, Lines 12-28.

³³ *Id.*, Page 7, Lines 18-19.

began to realize that Rodriguez was possibly the same person that posted the Instagram video.³⁴

Officer Rivas then asked, *“do you mind if I pat you down?”* At that moment Rodriguez said *“I have like sheets”* as he simultaneously placed his right hand down on his right front pants pocket. Officer Rodriguez gave the command *“don’t reach for it.”* According to Officer Rivas, he was unable to determine that the bulge was a gun, however, Rodriguez’ reaction caused him to believe that it was a gun.³⁵

Officer Rivas attempted to grab ahold of Rodriguez’ arms, as he gave a command to Rodriguez to *“put your hands behind your fucking back.”* Julio Rodriguez turned away from Officer Rivas before he could get ahold of him and ran away north on Griffin Avenue.

OIG Note No. 8: *With regard to the bulge he observed in Julio Rodriguez’s pants pocket, Officer Rivas stated, “As soon as he grabbed it and reached and, you know, held onto it and then ran, then I believed that it was a gun.”*³⁶

According to Officer Rivas’ BWV, he yelled the command of *“Put your hands behind your back,”* as he unholstered his pistol with his right hand. According to Officer Rivas, he held his pistol with a one-handed grip, with his trigger finger along the frame and the pistol pointed in a low-ready position, as he chased Rodriguez.³⁷ According to Officer Rodriguez’ BWV, as the foot pursuit began, he unholstered his pistol with his right hand. According to Officer Rodriguez, he held it in a one-handed grip, in a low ready position, with his trigger finger along the frame and followed behind his partner.³⁸ According to Officer Rodriguez, the suspect’s actions *“lead me to believe that he possibly may be reaching for a weapon or an item to inflict harm on me or my partner...”*³⁹

Julio Rodriguez ran across Griffin Avenue, onto the west side walk and continued north. According to Officer Rivas, as he continued to run after Rodriguez, he ran in the street utilizing the cars parked along the west curb for cover and to maintain distance between Rodriguez and himself.⁴⁰

³⁴ *Id.*, Page 8, Lines 5-8.

³⁵ *Id.*, Page 19, Lines 23-25 and Page 20, Line 1.

³⁶ *Id.*, Page 19, Line 24 to Page 20, Line 1.

³⁷ *Id.*, Page 26, Lines 9-25 and Page 27, Lines 1-5

³⁸ Officer Rodriguez, 1st Interview, Page 15, Lines 18-20 and Page 39, Lines 14-19.

³⁹ *Id.*, Page 33, Lines 22-24.

⁴⁰ *Id.*, Page 8, Lines 12-14 and Page 43, Lines 19-25.

Note: According to Officer Rodriguez, Officer Rivas and Julio Rodriguez weaved between the parked cars on Griffin Avenue during the foot pursuit.⁴¹ Investigators' review of the Officers' BWV determined the officers ran in the street as the suspect ran on the west side walk.

At 0009:56 hours, as Officer Rivas chased Rodriguez, he unholstered his radio with his left hand and attempted to broadcast a foot pursuit and backup request: "...11A37, 415 man with a gun, we are going to be northbound on Griffin, approaching Montecito. Let me get a backup! Male Hispanic, grey sweater, blue jeans."

Note: Investigators' review of Communications Division (CD) recordings of Northeast frequency determined that the Officers Rivas broadcast did not go out on the air.

According to Officer Rivas, he intended to pursue Rodriguez in containment mode while additional resources responded to assist ⁴²

Note: According to Officer Rodriguez, they were in apprehension mode during the foot pursuit.⁴³

Julio Rodriguez ran west into the driveway of a residence at 4415 Griffin Avenue and up to the rear yard gate that was blocked by three trash cans.

OIG Note No. 9: According to Officer Rivas, "I was running in the street, and I originally made the turn after I had lost him in the -- in his turn -- the suspect. And once I saw the turn, I had realized that he was directly in front of a locked gate and some trash -- or a gate and some trash cans."⁴⁴

The foot pursuit covered an approximate distance of 528 feet with a duration of approximately 25 seconds. As officer Rivas arrived at the apron of the driveway, he gave the verbal command of "Put your fucking hands up, dude!" According to Officer Rivas, he observed Rodriguez standing facing in a northerly direction, as he removed a gun from his waist band area with his right hand.⁴⁵ As Rodriguez raised the gun up from his waistband area, it was pointed in an easterly direction. According to Officer Rivas, he saw Rodriguez taking the gun out and raise it with his arm fully extended in

⁴¹ *Id.*, Page 60, Lines 13-22.

⁴² Officer Rivas, 1st Interview, Page 43, Lines 14-15.

⁴³ Officer Rodriguez, 1st Interview, Page 15, Lines 12-14.

⁴⁴ Officer Rivas, 1st Interview, Page 22, Lines 2-8.

⁴⁵ *Id.*, Page 8, Lines 18-20.

his direction.⁴⁶ According to Officer Rivas, he believed Rodriguez intended to shoot him.⁴⁷ Officer Rivas raised his gun, with a two-handed grip and fired one shot from an approximate distance of thirty-two feet.

OIG Note No. 10: *Officer Rivas's BWV footage appears to show that as Julio Rodriguez approached the end of the driveway near the trash cans, he threw a gun over the fence located there and then ducked behind the trash cans. Simultaneously, Officer Rivas yelled, "Put your fucking hands up dude!" A split-second later, Officer Rivas fired one round at the Julio Rodriguez.*⁴⁸

*Shortly after the round was fired, Julio Rodriguez asked Officer Rivas, "Why did you shoot at me?" Officer Rivas replied, "Dude, you threw the gun, you were reaching."*⁴⁹

The trajectory evidence determined the bullet hit a plastic trash can next to Rodriguez, penetrated through and continued west. According to Officer Rivas, he targeted Rodriguez' center mass.⁵⁰ Rodriguez continued to raise the gun up over his shoulder and threw the gun into the rear yard of the residence. Officer Rivas gave the command to "get on the ground" three times, as Rodriguez went down onto his knees. According to Officer Rodriguez' BWV, after the sound of the gun shot occurred, Officer Rodriguez stopped running and stood in the street next to a parked vehicle, approximately two car lengths from his partner. Officer Rodriguez holstered his pistol and unholstered his radio, as he asked Officer Rivas if that was a "shot fired."

Note: Officer Rodriguez described seeing Officer Rivas take a shooting stance and he described the muzzle flash from Officer Rivas' gun.⁵¹ At the time the shot was fired, Officer Rodriguez' BWV camera captured audio of the shot; however, it did not capture Officer Rivas' location and actions at the time the shot was fired.

At 0010:12 hours, Officer Rodriguez broadcast "11A37, shots fired officer needs help." Officer Rodriguez unholstered his pistol and held it in a single hand grip, pointed toward the ground, as he moved from the street, onto the sidewalk south of the driveway.

⁴⁶ *Id.*, Page 8, Lines 21-23 and Page 23, Line 23.

⁴⁷ *Id.*, Page 24, Lines 6-7 and Page 52, Lines 3-4.

⁴⁸ Officer Rivas's BWV, 08:10:05Z-08:10:07Z.

⁴⁹ *Id.*, 08:11:00Z-08:13:40Z.

⁵⁰ Officer Rivas, 1st Interview, Page 47, Lines 6-25.

⁵¹ Officer Rodriguez, 2nd Interview, Page 16, Lines 1-11.

According to Officer Rodriguez, from his position he had a line of sight on his partner.⁵² According to Officer Rodriguez, he paused on the sidewalk to locate the address of that location.⁵³ The Radio Telephone Operator (RTO) broadcast an "Officer Needs Help Call" and requested a better location. Officer Rodriguez responded with a broadcast of "*Avenue 43 and Griffin Avenue, just west of the liquor store.*"

Officer Rivas gave numerous commands to Rodriguez to lay down on the ground and Rodriguez did not comply with the commands. As Officer Rivas walked closer to Rodriguez, he warned Rodriguez that he would use a TASER as he commanded that Rodriguez put his chest on the ground. Julio Rodriguez leaned forward placing his palms on the ground while he remained on his knees. As Officer Rivas gave another command for Rodriguez to lay down on the ground, Rodriguez raised back up onto his knees. Officer Rivas while holding his pistol in his right hand, he unholstered his TASER with his left hand and gave Rodriguez another verbal warning that he would "tase" him. According to Officer Rivas, he was concerned that Rodriguez would attempt to rearm himself, so he unholstered his TASER, in an effort to de-escalate the situation.⁵⁴

Officer Rivas activated the red dot sights of the TASER and targeted them on Rodriguez' torso area. At that time, Rodriguez complied and laid down in a prone position on his stomach. Officer Rivas holstered his pistol and held cover on Rodriguez with the TASER with the red dot sights targeted on the center of Rodriguez' back as he moved closer. According to Officer Rodriguez' BWV, he joined Officer Rivas and gave the command, "*Don't reach for the gun or whatever you have in your pocket*" to Rodriguez. Officer Rodriguez held his pistol in a single hand grip, in his right hand, in a low-ready position, providing lethal cover for his partner; while holding his radio in his left hand.

Officer Rivas holstered his TASER and placed his left hand on Rodriguez' back between his shoulder blades. Officer Rivas took hold of Rodriguez' right arm with his right hand and gave the command to "*put your hands behind your back.*" Officer Rivas guided Rodriguez' right arm behind his back, and then transitioned his hold of Rodriguez' right wrist to his left hand; as he unholstered his handcuffs with his right hand. Officer Rivas placed a cuff on Rodriguez' right wrist and then one on the left wrist securing Rodriguez' hands behind his back. Officer Rivas double locked the handcuffs and began to examine Rodriguez for injuries as he asked him if he "*got hit?*"

⁵² *Id.*, Page 16, Lines 5-11.

⁵³ *Id.*, 1st Interview, Page 15, Lines 16-24.

⁵⁴ Officer Rivas, 1st Interview, Page 9, Lines 1-2 and Page 50, Lines 23-24.

Note: According to Officer Rodriguez, Officer Rivas was on top of Julio Rodriguez.⁵⁵ Investigators' review of Officer Rivas and Rodriguez BWV did not capture any images of Officer Rivas' kneeling on Julio Rodriguez' back.

Officer Rivas directed Officer Rodriguez to get the address of the house they were at. At 0011:45 hours, Officer Rodriguez used his flashlight to illuminate the front of the residence to verify the address and broadcast "*11A37 a better address is 4415 Griffin Avenue.*" According to Officer Rodriguez, the suspect was handcuffed, so he walked out to the street and turned on his flashlight to direct responding officer to their location. Officer Rodriguez further stated that from his position at the end of the driveway he had a line of sight on his partner.⁵⁶

At approximately 0011:56 hours, Northeast Patrol Division Sergeant I Johnny Borjas, Serial No. 37922, assigned to Unit 11L50 broadcast that he was responding to the "Help Call," activated his BWV camera, the vehicles lights and siren and drove Code three to the call.⁵⁷ According to Sergeant Borjas, he read the comments of the call, to get a situational awareness and to determine what was needed at the scene.⁵⁸

Northeast Patrol Division, uniformed Police Officer III Jonathan Moyers, Serial No. 37846 (driver) and Police Officer II Jonathan Roman, Serial No. 37309 (passenger), were assigned to Unit 11A89, Watch Three. They activated their BWV cameras, responded Code Three to the back-up call and were the first unit to arrive.⁵⁹ At 0012:30 hours, as Officer Moyers drove east on Avenue 43 approaching Griffin Avenue, Officer Roman broadcast that they were Code Six. Officer Moyers drove north

⁵⁵ Officer Rodriguez, 1st Interview, Page 16, Lines 14-20.

⁵⁶ *Id.*, Page 57, Lines 1-9.

⁵⁷ Sergeant Johnny Borjas, 13 years, ten months, with the Department, 41 years of age, 5 feet 6 inches tall, 165 pounds. Sergeant Borjas was wearing a ballistic vest and had Department-approved handgun, handcuffs, TASER, ASP baton, canister of Oleoresin Capsicum (OC) spray and a flashlight attached to his Sam Browne equipment belt. He was equipped with BWV, driving a marked black and white police SUV, Shop No. 89148, equipped with emergency equipment and a Digital In-Car Video System (DICVS). Code Three, radio designation identifying a unit responding with lights and siren activated to a radio call or an emergency.

⁵⁸ Sergeant Borjas, Page 7, Lines 12-16.

⁵⁹ Officer Moyers 14 years, two months, with the Department, 41 years of age, 5 feet 10 inches tall, 230 pounds. Officer Roman 15 years, three months, with Department, 36 years of age, 5 foot 11 inches tall, 200 pounds. Officers Moyers and Roman were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERS, ASP batons, canisters of Oleoresin Capsicum (OC) spray and flashlights attached to their Sam Browne equipment belts. The Officers both had a Hobble Restraint Devices (HRD) on their person. Officer Moyers was carrying back-up firearm. The officers were equipped with their BWV. The officers were in a marked black and white police SUV, Shop No. 80392, equipped with emergency equipment and a Digital In-Car Video System (DICVS). The officers had side-handled batons and a beanbag shotgun stored inside their police vehicle.

on Griffin Avenue and parked in the Southbound lane of traffic one house south of 4415 Griffin Avenue. As they exited their police vehicle, Officer Rodriguez advised them that the suspect was in custody. Officers Moyers and Roman ran into the driveway and met with Officer Rivas. Officer Rivas told them that Rodriguez had thrown the gun into the back yard of the residence.

Officer Moyers walked around the trash cans in front of the gate and lifted the gate up off the hinges and opened it to gain access to the back yard. Officer Roman took custody of Rodriguez from Officer Rivas and advised that he would take over communications. Officer Roman directed Officer Rivas to go with Officer Moyers to look for the gun. At 0013:40 hours, Officer Roman broadcast *"A89 for A37, there is a Code Four! The suspect is in custody, get me a supervisor and you're probably going to need three additional units."* The RTO broadcast a "Code Four" over Northeast frequency. The RTO broadcast a request of *"Are all units accounted for."* Officer Roman responded with a broadcast of *"89 one more time, the suspect is in custody, the weapon is in custody, have the units respond Code Two High."*⁶⁰

According to Officers Moyers' BWV, he and Officer Rivas entered the back yard, Officer Rivas told him that there were no additional suspects. The officers utilized their flashlights to search the area for the gun and discussed requesting a "Gun Dog" to assist with the search.⁶¹

At 0014:06 hours, Officer Moyers located the gun laying on the ground next to a plastic shed in the rear yard of 4415 Griffin Avenue.

According to Officer Moyers' BWV, he repositioned a metal chair approximately two feet to the west, away from the gun and Officer Rivas told him to not move the gun. Officer Rivas walked to Officer Moyers' location and illuminated the gun with his flashlight. Officer Moyers advised Rivas that he would guard the gun and directed him to return to his partner.

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⁶⁰ Code Two, non-emergency response to a radio call or request.

⁶¹ "Gun Dog" is police jargon meaning a K-9 police dog that has been trained to search for and locate guns.



(Crime Scene Photograph No. K1522068)

On Officers Rivas and Roman's BWV, when Officer Rivas returned to front of the residence where Officer Roman was standing in the driveway, Officer Roman can be heard as he advised officer Rivas to stay by himself until a supervisor comes. Officer Roman assisted Julio Rodriguez to his feet and walked Rodriguez to his police vehicle. Officer Roman conducted a search of Julio Rodriguez incident to arrest and recovered a gold colored Android phone and a clear plastic bag containing off white powder resembling methamphetamine from Rodriguez' left front pants pockets. Officer Roman secured Julio Rodriguez in the rear seat of his assigned police vehicle.

In response to the "Help Call," the following Hollenbeck Patrol Division and Northeast Patrol Division uniformed officers responded Code Three to the "Help Call" and activated their BWV cameras during their response: Police Officers II Oscar Hernandez, Serial No. 43638 and Guillermo Arias, Serial No. 41484, Unit 4A18; Police Officer III Edward Artiaga, Serial No. 40509 and Police Officer II Kevin Delgado, Serial No. 43038, Unit 4A59, Police Officers II Charles Hosea, Serial No. 43216 and Antonio Lopez, Serial No. 42697, Unit 4A6; Police Officer III Joseph Geraci, Serial No. 35686, and Police Officer I Lucero Fraiss, Serial No. 43725, Unit 11A71; Police Officers III Joe Perez, Serial No. 30847 and Police Officer I Steven Lawson, Serial No. 43765, Unit 11X26, Police Officers II, Justin Koby, Serial No. 41647 and Jesus Ramos, Serial No. 42600, Unit 11A1, Police Officer III Jenny Potts, Serial No. 36240 and Police Officer I Kyle King, Serial No. 43942, Unit 11X58, Police Officers II Raul Ramirez, Serial No. 42730 and Jason Wilde, Serial No. 39379, Unit 11A95.

At approximately 0014:35 hours, Air Support Division, Unit Air-3, manned by Pilot Police Officer II+6 Gregory Duran, Serial No. 27766, and Tactical Flight Officer Police Officer II+5 Matthew Sikorski, Serial No. 38372, arrived overhead and provided aerial support to responding units directing officers to perimeter and containment positions.

Northeast Patrol Division uniformed Police Officers III Cesar Silva, Serial No. 34368 and Antonio Vargas, Serial No. 36521, Unit 1FB2, activated their BWV and responded Code Three to the "Help Call."⁶² At 0014:40 hours, Officers Silva and Vargas arrived on scene and parked on Griffin Avenue north of Avenue 43. Officer Silva broadcast that they were Code Six and a request for responding units to stop traffic on Griffin Avenue north of the location. As Officers Silva and Vargas approached 4415 Griffin Avenue, they located Officers Rivas and Rodriguez standing near the driveway. Officer Rivas advised that they needed to be separated. Officer Vargas lead Officer Rodriguez North away from the other officers. Officer Vargas asked Officer Rodriguez if his BWV camera was recording and directed him to leave it on. Officer Vargas admonished Officer Rodriguez to not talk to anyone about the incident and to not view any social media. Officer Vargas gave Officer Rodriguez a small laminated card, that was produced and distributed by the Los Angeles Police Protective League. The card defined the Public Safety Officers Procedural Bill of Rights Act on one side and the Recommended Procedure for Public Safety Statements on the other side. Officer Vargas advised Officer Rodriguez to read the card and explained that he would be asked to provide a statement at some point. Officer Vargas further explained that he was required to provide the PSS one time only that he was to not make any other statements or answer any additional questions until he had legal representation.

At 0017:09 hours, Officer Rivas notified Officer Silva that an OIS had occurred. Officer Silva then broadcast on Northeast frequency that an inner and outer perimeter containment need to be set up. Officer Silva directed officers to start a crime scene log and secure the inner and outer perimeter with crime scene tape. Officer Silva made a second broadcast directing units on the perimeter to stop all vehicle traffic from entering or exiting Griffin Avenue.

At approximately 0017:10 hours, Sergeant Borjas arrived at scene and broadcast that he was the Incident Commander (IC). Sergeant Borjas parked at the intersection of Avenue 43 and Griffin Avenue. Sergeant Borjas walked to 4415 Griffin Avenue and located Officer Rivas and was notified that there was an OIS with only one officer involved and the suspect was in custody.

According to Sergeant Borjas BWV, he directed Officer Rivas to standby with Officer Artiaga as he assessed the scene and established control of the incident. According to Sergeant Borjas, *"After talking to Officer Rivas, he briefly told me that he was the only*

⁶² Officer Cesar Silva, 22 years with the Department, 48 years of age, 5 feet 6 inches tall and 200 pounds. Officer Antonio Vargas 11 years and four months with Department, 46 years of age, 5 feet, 9 inches tall and 220 pounds. Officers Silva and Vargas were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, canisters of Oleoresin Capsicum (OC) spray and flashlights attached to their Sam Browne equipment belts. The Officers both had a Hobble Restraint Devices (HRD) on their person. The officers were equipped with their BWV. The officers were in a marked black and white police SUV, Shop No. 80445, equipped with emergency equipment and a Digital In-Car Video System (DICVS). The officers had side-handled batons stored inside their police vehicle.

*one who shot, and we had already one suspect in custody. At that point I could have continued asking him the rest of the questions, but time was of the essence and my concern at that point was to make sure that everything was set up and organized. I was organizing the other units. So, I gathered what I needed to make sure that I had everything under control before I went into the actual investigative side of the incident.”*⁶³

Officer Silva advised Sergeant Borjas that officers were securing the crime scene and that a crime scene log was initiated. At 0019:31 hours, Sergeant Borjas broadcast a request for an additional supervisor to respond to the scene. Sergeant Borjas then directed Officer Faris to secure the front of the residence at 4415 Griffin Avenue with crime scene tape and to not allow any one inside.

At 0020 hours, Northeast Patrol Division Sergeant I Mark Flores, Serial No. 35346 assigned to Unit 11L130 responded to the “Supervisor Request,” arrived on scene and met with Sergeant Borjas.⁶⁴ Upon being briefed, Sergeant Flores initiated the separation and monitoring of Officer Rivas. Sergeant Flores walked Officer Rivas out of the crime scene to his police vehicle.

At 0023:20 hours, Sergeant Borjas established a Command Post (CP) at Avenue 43 and Griffin Avenue.

At approximately 0023:30 hours, Northeast Patrol Division Watch Commander, Lieutenant I Louie Lozano, Serial No. 32100, arrived on scene, made a broadcast on Northeast frequency identifying that he was now the Incident Commander. Lieutenant Lozano met with Sergeant Borjas and received a brief of the details of the incident.

At approximately 0027 hours, Sergeant Borjas took over the monitoring of Officer Rodriguez from Officer Vargas.

At approximately 0028 hours, Sergeant Flores, admonished Officer Rivas to not discuss the incident with anyone, unless ordered to by Force Investigation Division (FID). Sergeant Flores directed Officer Rivas to turn off his BWV camera and took possession of the camera. At approximately 0030 hours, Sergeant Flores took a Public Safety Statement from Officer Rivas. Sergeant Flores transported Officer Rivas to Northeast Station and monitored him until 0129 hours, where upon Northeast Patrol Division

⁶³ Sergeant Borjas, Page 21, Line 25 and Page 22, Lines 1-10.

⁶⁴ Sergeant Mark Flores, 20 years, five months, with the Department, 46 years of age, 5 feet 11 inches tall, 180 pounds. Sergeant Flores was wearing a ballistic vest and had Department-approved handgun, handcuffs, TASER, ASP baton, canister of Oleoresin Capsicum (OC) spray and a flashlight attached to his Sam Browne equipment belt. Sergeant Flores was carrying a backup firearm. He was equipped with BWV, driving a marked black and white police SUV, Shop No. 80647, equipped with emergency equipment and a Digital In-Car Video System (DICVS).

Sergeant II Christopher Gomez, 33237, took over monitoring Officer Rivas until he was interviewed by FID Investigators.

At approximately 0052 hours, Lieutenant Lozano admonished Officer Rodriguez to not talk about the incident with anyone. Lieutenant Lozano directed Hollenbeck Detective Division Night Watch Detective II Ronald Chavarria, Serial No. 30816, to take over the monitoring of Officer Rodriguez. Detective Chavarria directed Officer Rodriguez to turn off his BWV camera and give it to Sergeant Borjas. Detective Chavarria transported Officer Rodriguez to Northeast Station, where they remained until Officer Rodriguez was interviewed by FID Investigators.

On January 5, 2020, at approximately 0012 hours, the Department Operations Center (DOC) was notified of the "Officer Involved Shooting" incident. At 0111 hours, the DOC notified FID Lieutenant II Damian Gutierrez, Serial No. 30050, of the Categorical Use of Force (CUOF).

OIG Note No. 11: *The DOC was notified of the OIS at 0111 hours on January 5, 2020. At 0112 hours, the DOC notified FID Lieutenant Gutierrez of the CUOF.*

At 0213 hours, Detective II Luis Farias, Serial No. 33910 was the first Force Investigation Division (FID) investigator to arrive on scene.

Force Investigation Division Detective II Thomas Brown, Serial No. 34045, reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators. Force Investigation Division received the Assessment of Supervisory Response to a Categorical Use Of Force on January 13, 2020.

Scene Description

The pedestrian stop was initiated in front of 4302 Griffin Avenue, a two-story and multi-unit west facing apartment building. The front of the building, public sidewalk and street was illuminated by an overhead, pole mounted streetlight.

The foot pursuit started at 4302 Griffin Avenue and continued Northbound to 4415 Griffin Avenue. Griffin Avenue is illuminated by overhead, pole mounted streetlights.

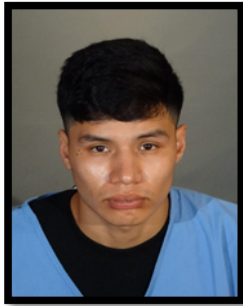
4415 Griffin Avenue is an east facing, single story, single family residence. The OIS occurred in the driveway of the residence, located on the south side of the property. The driveway was illuminated by a motion activated flood light attached to the southeast corner of the roof fascia; facing in an easterly direction toward Griffin Avenue.

The incident occurred during hours of darkness at approximately 0012 hours. The weather conditions were dry and clear. Vehicular and pedestrian traffic on Griffin Avenue was very light.

Canvass for Witnesses

On January 5, 2020, Northeast Area personnel canvassed the 4400-4300 blocks of Griffin Avenue for witnesses. An additional canvass, following the categorical UOF investigation was conducted by FID personnel on February 18, 2020. Unless otherwise noted, the statements of all witnesses were recorded and transcribed.

Suspect Information



Julio Rodriguez is described as a male Hispanic with black hair and brown eyes. At the time of the incident, he was 5 feet 5 inches tall, weighed approximately 180 pounds, and had a date of birth of December 2, 1970. Rodriguez' California Department of Motor Vehicles (DMV) Identification Card listed an address of 4001 Mission Road, Apt. 44, Los Angeles, California. Rodriguez was identified by Criminal Information Index (CII) No. A37818170, and California DMV Index No. X1582739. Rodriguez is a self-admitted member of the Avenues criminal street gang, known by the monikers of "Lil Boy" and "Chato." Julio Rodriguez has tattoos consistent with Avenues Gang symbols, consisting of the letters "VLA" on his right wrist. The letters "VLA" are commonly known to represent the Spanish slang term "Varrio Los Avenues," symbolizing affiliation to the Avenues Gang. While in custody, after the arrest that occurred on January 5, 2020, Rodriguez acquired another tattoo, on his left temple area, consisting of the numbers "43." The numerals "43" commonly represent the Avenue 43 clique of the Avenues Gang. Julio Rodriguez had no prior LAPD, Mental Evaluation Unit (MEU) contacts.

OIG Note No. 12: As is noted elsewhere in FID's report, Julio Rodriguez was 23 years old at the time of this incident.

At the time of this incident, Rodriguez' documented criminal history consisted of one misdemeanor and three felony arrests. The first arrest was dated August 4, 2018, when Rodriguez was arrested for a violation of California Penal Code section 11377 (A) Possession of Controlled Substance and California Vehicle Code section 12500 (A) Unlicensed Driver. The second arrest was dated July 6, 2019, when he was arrested for violation of California Penal Code section 245 (A)(1) Assault with a Deadly Weapon-Not a Firearm. The Third arrest was dated September 29, 2019, for a violation of California Penal Code section 25850 (C)(3) Gang Member Carrying a Loaded Firearm. During the investigation of that incident, Julio Rodriguez admitted to the arresting officers that he was an active Avenues Gang member, known by the moniker of "Little Boy." Julio Rodriguez' admission to Avenues gang membership was documented in the narrative section of the Arrest Report DR No. 1904-15137. On the date of OIS, Rodriguez was on summary misdemeanor probation and out of custody on felony bail for the September 29, 2019, firearms violation arrest.

On January 5, 2020, at 0707 hours, FID Detectives II, Jorge Cruz Serial No. 35297, Paul Inabu, Serial No. 30286, assigned to the Criminal Apprehension Team and

Guillermo Medina, Serial No. 35905, assigned to the Administrative Criminal Investigation Team, interviewed Rodriguez. Julio Rodriguez told investigators that he ran from the officers because he had methamphetamine in his pocket. He denied that he had possession of a gun and denied that he was an active Avenues Gang member.

As a result of this incident, FID Detective Robert McCarty, Serial No. 31125, assigned to The Criminal Apprehension Team completed an LAPD Investigative Report (IR), an Arrest Report and a Follow-Up Report for Assault with a Deadly Weapon on a Police Officer, DR No. 2004-04149, listing Officer Rivas as the victim and Julio Rodriguez as the suspect.

Injuries

At approximately 0028 hours, Julio Rodriguez told Officer Roman he was having stomach pain and he felt nauseous. Officer Roman broadcast a request for the Los Angeles Fire Department (LAFD) to respond.

At approximately 0037 hours, LAFD, Engine Company No.1 manned by Fire Fighter/Paramedics Vince Martinez and Matthew Edgington; and Rescue Ambulance (RA), No. 844 manned by Fire Fighter/Emergency Medical Technicians Christopher Stein and Matthew Zuleski, arrived at scene. Julio Rodriguez was evaluated by the Paramedics, whom determined that he was not in medical distress nor in need of any further medical assistance.

At approximately 0044 hours, Officers Moyers and Roman transported Rodriguez to Northeast Station for booking approval.

Evidence

On January 5, 2020, FID Detective II George Cruz, Serial No. 35297, took custody of the white powdery substance resembling narcotics, (Item No. 1) obtained one buccal swab from Julio Rodriguez at Northeast Station (Item No. 2), collected Rodriguez clothing (Items Nos. 8-12), a cell phone (Item No. 3) and keys (Item Nos. 4-7). The evidence items recovered from Rodriguez were booked at Central Property Division.

On January 5, 2020, Forensic Science Division, Firearms Analysis Unit (FSD/FAU), Criminalists II, Jack Seror, Serial No. N4571, Criminalist I Andrea Munoz, Serial No. N6276 and Supervising Criminalist Julia Wilkinson, Serial No. N4403, arrived at scene and conducted an examination for ballistic evidence, projectiles and associated evidence.

As a result of their examination, a total of nine items of evidence were collected from the crime scene and booked as evidence in conjunction with this investigation. Included in those items, were a 9mm semi-automatic pistol (Item No. 13), a discharged .40 caliber casing (Item No. 15), one bullet (Item No. 16), live ammunitions cartridges (Item No. 17-21).

Weapons

Julio Rodriguez was armed with a blue steel, 9mm, unknown manufacturer and unknown model, semiautomatic pistol. On January 5, 2020, Criminalist Seror recovered the pistol from the ground and noted it was lying on its right side with the muzzle pointing north and the magazine was fully inserted. Criminalist Seror determined the pistol was loaded with one live 9mm cartridge in the chamber and four live 9mm cartridges in the magazine. The pistol did not contain any manufacture marks and no serial numbers.⁶⁵



(Crime Scene Photograph No. K1522073)

Officer Rivas was armed with his Department-approved Glock, Model 22, .40 caliber, semi-automatic pistol, Serial No. NWXL9330. The pistol was equipped with a Department approved, Surefire, Model X200 Ultra tactical light, and it was carried in a Safariland, level III retention holster on his Sam Browne utility belt. According to Officer Rivas, at the time of the OIS, his pistol was loaded with 16 rounds and his two additional magazines were loaded with 15 rounds of Department-authorized ammunition.

On January 5, 2020, at approximately 0510 hours, FID Detective Brown conducted a post-incident examination of Officer Rivas' pistol. Detective Brown observed that the pistol was loaded with Speer Gold Dot G2, .40 Smith & Wesson, 180 grain, Department

⁶⁵ In the traditional manufacturing process, the firearm manufacturer or importer will affix a serial number and markings that identify the manufacturer or importer, make, model, and caliber. Using this information, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) can track firearms from the manufacturer or importer through the distribution chain to the first retail purchaser. In recent years, there has been an increasing number of efforts to circumvent these laws by exploiting the loopholes that result from that assumption. Selling gun parts and components that can easily be used to build a firearm is one such loophole since buyers of unfinished gun parts or components are not required to undergo a background check. Similarly, other federal and state laws that regulate gun sales or purchases often do not apply to unfinished parts and components. A Firearm assembled from non-serialized parts is commonly referred to as a "Ghost Gun," and circumvents American gun laws. <https://lawcenter.giffords.org/gun-laws>. On Department reports FSD/FAU, personnel document "Ghost Guns," as an SS80, unknown model.

approved ammunition. There was one round in the chamber and 14 rounds in the magazine. An inspection of two additional magazines that Rivas had in the magazine pouches on his utility belt, determined both were loaded to Department Standards with 15 rounds of Speer Gold Dot G2, .40 Smith & Wesson, 180 grain ammunition in each magazine. One expended Speer .40 caliber cartridge case collected at the OIS scene. This information was consistent with Officer Rivas having fired a total of one round during the OIS.

On January 27, 2020, FSD FAU Criminalist Daniel Rubin, Serial No. G9077, completed a report documenting the test-firing of Officer Rivas' pistol. The pistol was found to be functional and the trigger pull value for this pistol was within the Departments established range.

Detective Brown queried Officer Rivas' .40 caliber, Glock Model 22, Serial No. NWXL9330 pistol through the Firearms Inventory Tracking System (FITS) and determined it was registered with the Department Armory since May 10, 2016.

Firearms Analysis

On February 12, 2020, Technical Investigation Division (TID) Chemical Processing Unit, Forensic Print Specialist III Arthur Gerio, Serial No. V8109, completed an analyzed Evidence Report, documenting the latent print examination of Rodriguez' pistol and magazine. Print Specialist Gerio, determined that no latent prints of value were developed from the pistol or magazine.

On March 18, 2020, Criminalist Seror completed a Bullet Path Analysis Report. Criminalist Seror documented one bullet pathway that was identified as Pathway A, consisting of two perforating impacts (A and A1) and one penetrating impact (A2).

- Impact A was located on the east facing exterior of the blue trash can.
- Impact A1 was located on the west facing exterior of the blue trash can.
- Impact A2 was located on the east facing exterior of the storage shed.

The bullet pathway was consistent with a bullet traveling east to west, and in a downward direction.

On March 9, 2020, Criminalist Seror completed a laboratory report documenting the Deoxyribonucleic Acid (DNA) collection. Criminalist Seror swabbed Rodriguez' pistol, magazine, and live cartridges for DNA. The swabs were booked at the Forensic Science Center, as evidence, Item Nos. 22-24.

On March 19, 2020, Criminalist Annette Woiwode, Serial No. N4427, FSD, completed a Test Fire Report, documenting the test firing of Rodriguez' pistol. The expended bullets and cartridge evidence (Item Nos. 29 and 30) were collected for comparison and entry into The Notification of National Integrated Ballistic Information Network (NIBIN), for further evaluation.

On April 8, 2020, Criminalist I, S. Hong, Serial No. N4628, FSD, completed a Serology/DNA-STRI analysis report, which determined the DNA profile obtained from the swab of the pistol was consistent with Rodriguez' DNA. The swab collected from the pistol, contained a mixture of Rodriguez' DNA profile and the profile of another unidentified male. The swab collected from the magazine, contained a mixture of DNA that was not suitable for comparison. The swab of the live cartridge recovered from Rodriguez' pistol, lacked sufficient DNA for STRI analysis.

VISUAL DOCUMENTATION

Digital In-Car Video System (DICVS)

There were eleven DICVS videos related to this incident. Each video was reviewed in its entirety by an FID investigator. The DICVS videos captured the officers' response to the scene, post OIS; the DICVS of Officers Rivas and Rodriguez police vehicle was not activated and did not capture audio or videos of the OIS.

Body Worn Video (BWV)

There were 31 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

Officers Rivas had his BWV camera on in buffer mode, as he initiated the pedestrian stop of Julio Rodriguez. Rivas' BWV captured the OIS. Officer Rivas turned off the BWV camera when he was directed to do so by Sergeant Flores.

Officer Rodriguez had his BWV on in buffer mode. He activated his BWV, one minute and forty-four seconds, after the contact with Rodriguez began. Officer Rodriguez' BWV did not capture the OIS. Officer Rodriguez turned off his BWV camera when he was directed to do so, by Detective Chavarria.

Officer Moyers had his BWV camera on in buffer mode. He activated his BWV as he responded Code Three to the OIS. The BWV captured the officers locating Julio Rodriguez' gun in the rear yard of 4415 Griffin Avenue.

Officer Roman had his BWV camera on in buffer mode. He activated his BWV as he responded Code Three to the OIS. The BWV captured the officers post OIS activities.

Officer Vargas had his BWV camera on in buffer mode. He activated his BWV as he responded Code Three to the OIS. The BWV captured the officers post OIS activities.

Officer Silva had his BWV camera on in buffer mode. He activated his BWV as he responded Code Three to the OIS. The BWV captured the officers post OIS command and control of the scene.

Sergeant Borjas had his BWV camera on in buffer mode. He activated his BWV as he responded Code Three to the OIS. The BWV captured the post OIS command and control of the scene.

Sergeant Flores had his BWV camera on in buffer mode. He activated his BWV as he responded Code Three to the OIS. The BWV captured the post OIS command and control of the scene.

Twenty-three of the BWV recordings captured officers responding Code Three to the scene and post OIS activities at the scene (Investigators' Note No. 4).

Other Department Video

None.

Outside Video

On January 5, 2020, at approximately 0700 hours, FID Investigators reviewed security camera video at the Neighborhood Market, located at 4301 Griffin Avenue. Security cameras mounted on the exterior of the market recorded 2 hours and fifteen minutes of video, depicting Julio Rodriguez loitering on the sidewalk in front of the market. During that time period, Rodriguez was accompanied by a male Hispanic and a female Hispanic. The video further captures Rodriguez enter the gate of 4302 Griffin Avenue, loitering in front of the apartment building and using his cell phone. The video captures Officer Rivas and Rodriguez' arrival and initial contact with Julio Rodriguez. The video was stored under control No. 746280.

On January 6, 2020, at approximately 1700 hours, FID Investigators reviewed security camera video at American Motor Trends, located at 4236 Griffin Avenue. Security camera mounted on the exterior of the business, recorded approximately 50 minutes of video. During that time period, Rodriguez was accompanied by a male Hispanic and a female Hispanic. The video captures Officer Rivas and Rodriguez' arrival and initial contact with Julio Rodriguez. The video was stored under control No. 746297.

Social Media

Personnel assigned to FID Cyber Unit monitored the news and social media platforms from the date of the incident until the submission of this investigation. No additional evidence, information, or witnesses were identified.

On January 6, 2020, Investigators obtained a search warrant signed by Judge Shelly Torrealba, at the Los Angeles County, Superior Court, Department 45; for Instagram/Facebook records related to User Profile sanchez_lboy43. Copies of the Search Warrant No. 84687 were stored in the FID Case Book. On January 28, 2020, Instagram/Facebook provided a response to the search warrant and released the records for User Profile sanchez_lboy43. Investigators review of records provided by Instagram determined that the User Profile sanchez_lboy43 belonged to Julio Rodriguez. The records contained numerous photographs and videos depicting

Rodriguez in possession of firearms, depicted with Avenues gang graffiti and engaged in gang activity.

Photographs

Technical Investigation Division, Photographer III, Garry Brod, Serial No. N1328, photographed the OIS scene and associated evidence. The photographs were subsequently stored under Control Nos. 0770045, and 0770374.

Notifications

On January 5, 2020, at approximately 0111 hours, Lieutenant Lozano notified the Department Operations Center (DOC) that an OIS had occurred. The details of the subsequent notifications were included in this report.

Personnel at Scene

At 0213 hours, Detective II, Luis Farias, Serial No. 33910, was the first representative from FID to arrive at the scene. Crime Scene Logs documenting the additional personnel at scene were stored in the FID Casebook.

Communications

Copies of the CD computer-generated Incident Recall Report associated with this occurrence, Incident No. 20010500000064, the corresponding 911 calls for service and the audio recordings of Northeast Division Area base frequency were stored in the FID Casebook.

The digitally recorded interviews of the involved and percipient officers, along with the civilian witnesses, were stored in the Training Evaluation and Management System (TEAMS) II database; TEAMS No. 2030551.

Justice System Integrity Division

This case did not meet the criteria for presentation to the Los Angeles County District Attorney's Justice System Integrity Division.

Investigators' Notes

1. The security camera video obtained from the American Motor Trend, located at 4236 Griffin Avenue; displayed an inaccurate Date and Time Stamp. The Date and Time stamp displayed at the beginning of the recording was displayed as 01-05-2020 00:00:00; indicating January 5, 2020, 0000 hours; the accurate Date and Time, was January 4, 2020, 2339 hours. The time stamp was one hour and three minutes ahead of the correct time. Investigators determined the accuracy of the time stamps based on the review and comparison of the security camera video footage, time stamps and the Officers' BWV date and time stamps. The camera that recorded the video of Rodriguez' activity was mounted on a signpost, located near the Northwest corner of the property; facing in a northwest direction. The camera provided a view

of the intersection of Avenue 43 and Griffin Avenue, and the West and East portion of the Neighborhood Market.

The security video obtained from the Neighborhood Market displayed the correct Date and Time Stamps and were consistent with the Officers' BWV date and time stamp. The cameras that recorded Rodriguez' activity, were mounted on the West facing side of the market. One camera was facing in a northerly direction and provided a view of the front of the market, the front of apartment building at 4302 Griffin Avenue, the east sidewalk and the traffic lanes of Griffin Avenue. The second camera was facing in a southerly direction and provided a view of the front of the market, the east sidewalk and intersection of Avenue 43 and Griffin Avenue.

The below attached photographs, are still frame pictures obtained from the Neighborhood Market security cameras, depicting Julio Rodriguez making hand gestures toward vehicles driving past his location.



2. During an interview with FID Investigators, Officer Rivas stated that he believed the use of Instagram to monitor criminal and gang activity was a Department approved

activity.⁶⁶ During the interview, Officer Rivas provided a copy of The Office of The Chief of Police, Notice, 14.5, dated March 28, 2012. Officer Rivas had highlighted the last sentence of the first paragraph; of the single page document: *The Department recognizes the importance of social media and encourages employees to utilize social media to develop situational awareness and as investigative tools in the course and scope of their employment.*

During the interview, Officer Rivas stated that he believed the use of a fictitious Instagram user profile to monitor criminal and gang activity was also a Department approved activity. Officer Rivas further stated, that he did not believe the use of the fictitious Instagram user profile was an undercover investigation. Officer Rivas provided a copy of The Los Angeles Police Department, Major Crimes Division, Social Media Users Guide, dated January 2015. Officer Rivas had highlighted and referred to the Department-Sanctioned Uses of Social Media Heading, under the subsection Heading of Investigations, on Page No. 4: *Fictitious Online Persona created for examining trends, developing profiles, or conducting research do not constitute Online Undercover activity.*

According to Officer Rivas he does not engage in conversations with members of the community or gang members while using the fictitious Instagram.

OIG Note No. 13: *According to Officer Rivas, "I don't communicate with people. I want to clarify that. Sometimes they'll ask me, 'Hey, who are you?' This and that. I'll give them a brief short answer and then I don't say anything after. [...] If I don't reply, obviously it's questionable like why isn't this person replying? So they would probably delete me or remove me as their friends from Instagram. So that's the only time I've ever communicated with anybody."*⁶⁷

Officer Rivas further stated that he did not have any conversations with Julio Rodriguez utilizing social media.⁶⁸ According to Officer Rivas, he did not use social media to conduct undercover investigations, indicating that he did not entice anyone to meet him or incriminate themselves.⁶⁹

According to Officer Rivas, he had discussed the use of Instagram with his immediate supervisor, Sergeant Louis Origel, Serial No. 35701, while he was assigned to the Northeast Division, Parole Compliance Unit. Officer Rivas had worked PCU approximately one year prior to this incident. Officer Rivas further stated, that Sergeant Origel, referred him to the Major Crimes Division (MDC), Social

⁶⁶ Officer Rivas, 2nd Interview, Page 13, Lines 2-25.

⁶⁷ *Id.*, Page 6, Line 21 to Page 7, Line 7.

⁶⁸ *Id.*, Page 6, Lines 21-25 and Page 7, Lines 1-17.

⁶⁹ *Id.*, Page 9, Lines 9-25 and Page 10, Line 1.

Media Guide and directed him to contact the Major Crimes Division for guidance.⁷⁰ Officer Rivas stated that he informed Sergeant Origel, that he was utilizing his personal cellular phone to monitor Instagram.⁷¹

Officer Rivas stated that he did not make direct contact with anyone at MDC, however, had conducted research of department guides and notices regarding using social media and using his personal devices. And believed that he did not need to notify his Commanding Officer that he was using his personal hand-held device to monitor social media.⁷²

Note: The Los Angeles Police Department, Major Crimes Division, Social Media Users Guide, dated January 2015, under the Use of Personal Equipment heading, on Page No. 7, states: Department personnel may use personal equipment to access information via social media sites when performing an authorized law enforcement mission with prior approval from the employees Commanding Officer.

According to Officer Rivas, on two prior occasions he had monitored Instagram and observed that gang members posted that they were gathering at public parks in Northeast Division. According to Officer Rivas, he conducted follow up investigations on the posts, which resulted in the arrest of gang members. According to Officer Rivas, the arrests were for probation violations, which did not require an arrest report narrative that would have documented the details of the arrest. Therefore, the use of Instagram was not documented as the source of activity for the arrest.⁷³

3. Photographs and videos posted on Instagram can be posted from various personal, electronic devices, such as cellular phone, iPad, laptop computers and desktop computers. Additionally, such electronic devices are commonly capable of taking photographs and videos instantly and storing them for long periods of time in the memory of the device; as a media file. These same devices are also capable of capturing and storing photographs and videos from other devices, social media sites and the internet. The Instagram application when utilized on these devices allow the user to retrieve the photograph and video media files from the memory of the devices at will, on any date or time after the media is stored on the device. The Instagram application displays the time the media was posted by the user; it does not display the date and time that the photograph or video was originally taken. The Instagram application does display a time stamp that's counts to 24 hours from the time the photograph or video was posted. The Instagram application further allows

⁷⁰ *Id.*, Page 12, Lines 22-25 and Page 13, Lines 1-8.

⁷¹ *Id.*, Page 13, Line 12.

⁷² *Id.*, Page 15, Lines 14-25 and Page 16, Lines 1-6.

⁷³ *Id.*, Page 10, Lines 10-12, Page 11, Lines 1-11, Page 18, Lines 23-25, Page 19, Lines 1-25 and Page 20, Lines 1-4.

the user to edit the media and alter the media with app generated text and characters; commonly referred to as Emoticons. Therefore, Media posted on Instagram can depict images, actions and events from prior dates and times. Thus, the media and post displayed on Instagram, may or may not correlate to events or action happening in real time.

On January 5, 2020, at approximately 0730 hours, during Officer Rivas' interview with FID Investigators he utilized his cellular phone to show the investigators the video that was posted by Instagram user profile sanchez_lboy43; that he viewed prior to the OIS and referred to during the interview. Officer Rivas utilized his personal cell phone to make a screen recording of the post and emailed the recording to investigators. At the time that Rivas made the recording, the Instagram Stories time stamp indicated that the video had been posted for eight hours. The time stamp was consistent with the Instagram App, the BWV time stamps and the offices statements.

4. Force Investigation Division investigators identified the BWVs of 29 officers as being related to this incident. Two of the BWVs captured the OIS and related incident. The BWVs of the Eight officers mentioned in this administrative summary were reviewed in detail.

The BWVs of the remaining 21 officers were inspected and determined not to have captured the officer-involved shootings or have any other relevant value. These BWVs have been tagged in Evidence.com under Incident No. 20010500000064 and remain available for review by the involved command.

The BWVs of the officers included in the administrative summary identified the following BWV activation results:

Officer	Reduced Buffer	Late Activation
Police Officer I Andrew Rodriguez		X
Police Officer II Charles Hosea	X	
Police Officer II Joseph Geraci	No BWV	

On February 26, 2020, Force Investigation Division Command notified the involved Area, Bureau and Office of Operations of the results of the video activations.

5. At 0014:06 hours, as Officer Moyers found the suspect's gun in the rear yard of 4415 Griffin Avenue. Upon observing the gun, Officer Moyers moved a white metal chair approximately two feet in a westerly direction; altering the crime scene. Investigators review of the crime scene investigation notes, evidence collection

reports and the officers' BWV, determined that the Officer's action of moving the chair did not have a significant effect on the evidence.

At 0014:45 hours, as Officer Arias entered the back yard of 4415 Griffin Avenue, he moved a black plastic trash can, approximate one foot in a southerly direction; altering the scene. The black trash can was one of the three trash cans that was position in front of the gate in the driveway. Officer Arias met with Officer Moyers and was advised that the scene was secure and there were no additional suspects. At 0015:27 hours, as Officer Arias exited the rear yard, he again, moved the black trash in a southerly direction, as he passed by it; altering the scene. The crime scene investigation, evidence collection and the review of the officers BWV determined that the officer's actions at the scene did not have a significant effect on the evidence. The bullet pathway and trajectory were determined by a review of Officer Rivas' BWV, the impacts on the trash cans and the shed in the rear yard of 4415 Griffin Avenue.

6. On February 5, 2020, during an interview with Officer Rivas, FID investigators paused the interview at 1717 hours. A review of the transcript and audio recording of the interview determined that at 1736 hours, as the interview resumed, Detective Brown incorrectly stated that the time was 1536 hours. It should be noted that the accurate time the interview was resumed was 1736 hours.

FID Supplemental Report⁷⁴

The Investigative Summary Report written by Force Investigation Division (FID) incorrectly documented the results of the Body Worn Video review. Page No. 26 and Page No. 27, of the Summary, should be amended to identify that:

Police Officer I, Andrew Rodriguez, Serial No. 43818, Body Worn Video (BWV) camera was activated late.

Police Officer II Jonathan Roman, Serial No. 37309, BWV camera was activated with a reduced buffer.

Police Officer III Joseph Geraci, Serial No. 35686 BWV was identified as having a reduced buffer activation. However, Officer Geraci, was not significantly involved in the incident, he responded the perimeter of the crime scene and held a containment position.

Police Officer II Charles Hosea, Serial No. 43216, BWV had a reduced buffer activation. However, Officer Hosea was not significantly involved in the incident, he responded the perimeter of the crime scene and held a containment position.

⁷⁴ On September 16, 2020, the Commanding Officer, FID issued a supplemental report regarding this case.

On September 16, 2020, Force Investigations Division, notified the Office of Operations of the Officers late activation and reduced buffer activations.

FID Supplemental Report⁷⁵

The Investigative Summary Report written by Force Investigation Division (FID) incorrectly documented the results of the Body Worn Video (BWV) review. On Page No. 23 of the Summary, should be amended to identify that;

Police Officer III Joseph Geraci, Serial No. 35686 had body BWV related to the response to the Officer Involved Shooting (OIS) Incident. Officer Geraci's BWV was activated and recording continuously from an incident that occurred on January 4th, 2020 at 2347 hours and continued to record as he arrived at the OIS scene at 4415 Griffin Avenue; on January 5th, 2020 at 0019 hours. Officer Geraci's BWV was identified as having a reduced buffer activation of thirteen seconds. However, Officer Geraci, was not significantly involved in the incident, he responded to the perimeter of the crime scene and held a containment position.

The Investigative Summary, Page No. 19, under the Notifications heading, should be amended to identify that; The Department Operations Center was notified by Northeast Division, Watch Commander, Lieutenant Louie Lozano at 0111hours, as noted on Page No. 1, of the DOC Notification Log. Upon further review of Page 2, of the DOC Notification Log it is indicated the correct and actual time of the DOC notification from Lieutenant Lozano was at 0059 hours. Lieutenant Lozano arrived at scene, to Griffin Avenue at 0023:30 hours. FID Investigators advised Sergeant Manuel Sanchez, Serial No. 36190 of the notification error cited on the DOC Notification Log.

Officer Andrew Rodriguez, Serial No. 43818, indicated that he unholstered his pistol, the suspects actions *lead him to believe that he possibly may be reaching for a weapon or an item to inflict harm on me or my partner.*" At the termination of the foot pursuit, after the sound of gun fire, Officer Rodriguez briefly holstered his pistol and made a radio broadcast of *"11A37, shoots fired officer needs help."* Upon completing that broadcast, Officer Rodriguez unholstered his pistol a second time. On September 18, 2020, during an interview with FID Investigators, Officer Rodriguez stated that his rational for holster in the first time was *"I didn't want to, you know, have a negligent discharge on my firearm, so then I go ahead and holster real quick, pull out my radio, put out the help call, and then I unholster very quickly, almost simultaneously."*

Officer Rodriguez stated his rational for unholstering a second time, was because *"it's the threat is still pretty high because he's not yet in custody. My partner observed a*

⁷⁵ On September 24, 2020, the Commanding Officer, FID issued a supplemental report regarding this case.

gun. You know, and he -- he was unhandcuffed. So, until we put handcuffs on him and further investigate, then that's when my weapon would be reholstered."

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CHIEF OF POLICE REPORT⁷⁶

Chief of Police Findings

Tactics – Administrative Disapproval, Officers Rivas and Rodriguez.

Drawing/Exhibiting – In Policy, No Further Action, Officers Rivas and Rodriguez.

Lethal Use of Force – In Policy, No Further Action, Officer Rivas.

Chief of Police Analysis

Detention

- Officers Rivas obtained information of a possible man with a handgun near the intersection of Avenue 43 and Griffin Avenue through the use of a fictitious social media profile. Officers Rivas and Rodriguez proceeded to the location in an attempt to locate the possible suspect who was armed with a handgun. Officers Rivas and Rodriguez observed Julio Rodriguez and conducted a pedestrian stop for a curfew and narcotics violation. Shortly after officers initiated contact and Officer Rivas observed a bulge in the individual's right front pants pocket,

Julio Rodriguez fled on foot. Coupled with their information about a man with a gun, the Officers believed that Rodriguez' actions to cover the bulge with his hand and run away was consistent with concealing a firearm. Officers Rivas and Rodriguez followed Julio Rodriguez in foot pursuit. The incident resulted in an OIS. The actions of Officers Rivas and Rodriguez detaining Julio Rodriguez were appropriate and within Department policies and procedures.

Tactics

- Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

Department policy relative to Administrative Disapproval is: *"A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training" (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident

⁷⁶ The information provided in this section summarizes the analysis and findings set forth in the Chief of Police's report for this case.

specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Los Angeles Police Department, Use of Force - Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016).*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officers Rivas and Rodriguez had worked together as partners on two occasions during the three months prior to this incident. During those instances, Officers Rivas and Rodriguez discussed tactical concepts including contact and cover roles, foot pursuits, communication roles including Code Six broadcasts, and de-escalation strategies. Officers Rivas and Rodriguez discussed that in event of a foot pursuit, one of them needed to broadcast the foot pursuit, request additional resources, and any additional pertinent information. Additionally, Officers Rivas and Rodriguez determined that if one officer made contact with an individual, the other officer would be the communications officer and would place them Code Six.

During this encounter, Officer Rivas advised his partner of the high gang and narcotics activity in the area of Avenue 43 and Griffin Avenue. Officer Rivas, after viewing the social media video depicting an individual with a handgun, advised his partner that there may possibly be a suspect armed with a handgun in the area of Avenue 43 and Griffin Avenue. As Officer Rivas drove towards that location, Officers Rivas and Rodriguez determined they would attempt to locate a possible suspect armed with a handgun, and if they did locate them, they would immediately request additional resources.

The UOFRB was critical of the general tactical plan discussed between Officers Rivas and Rodriguez, including their relaxed approach to Julio Rodriguez, who they believed was possibly armed with a handgun. Additionally, the UOFRB noted that

Officers Rivas and Rodriguez did not request any additional resources prior to attempting to stop a potentially armed suspect and did not notify a supervisor of the information they had obtained, specifically that the potentially armed suspect was located in an area outside of their division of assignment. The UOFRB also noted the requirements of Officer Rivas to notify his commanding officer of his utilization of a personal cellular telephone to monitor social media for criminal activity. However, the UOFRB acknowledged the tactical situation escalated swiftly and evolved rapidly based on Julio Rodriguez' sudden actions which escalated the encounter.

Assessment – Officer Rivas stated that, upon viewing the social media video, assessed the likelihood of the suspect still being at the 4302 Griffin Avenue and thought it was not good. However, he determined it would be beneficial to drive by the location to see if the suspect was still in the area. He provided general information on the location to Officer Rodriguez and informed him there may be a possible suspect with a handgun. Upon Officers Rivas and Rodriguez' arrival at Griffin Avenue north of Avenue 43, officers observed Julio Rodriguez standing in front of 4302 Griffin Avenue and believed he was in violation of both curfew and narcotics regulations. After making verbal contact with Julio Rodriguez, Officer Rivas observed a bulge in Julio Rodriguez' front right pocket and based on his assessment believed Julio Rodriguez was the suspect he observed in the social media video that he had viewed prior to the incident. Officer Rivas immediately formed the opinion that Julio Rodriguez was armed with a handgun, drew his service pistol, and began pursuing Julio Rodriguez north on Griffin Avenue.

Officer Rivas, while in foot pursuit, assessed the tactical situation and believed it was prudent to request additional resources for a suspect armed with a handgun. Officer Rivas immediately attempted to broadcast utilizing his hand-held police radio that he and his partner were in foot pursuit of a suspect armed with a handgun, their location, direction of travel, and the description of the suspect's clothing. As Julio Rodriguez ran west into the driveway of 4415 Griffin Avenue, Officer Rivas followed and observed Julio Rodriguez reach into his pants pocket, retrieve a handgun, and raise his right arm extended towards Officer Rivas while holding the handgun. Officer Rivas assessed the imminent threat presented by Julio Rodriguez' actions, subsequently leading to an OIS. Officer Rivas observed Julio Rodriguez continue his upward arm motion and throw the handgun over his head into the rear yard of the residence. Officer Rivas assessed and determined Julio Rodriguez no longer represented an imminent lethal threat. Immediately following the OIS, Officer Rodriguez assessed the tactical situation, attempted to confirm with Officer Rivas if an OIS had occurred and broadcast a shots fired officer needs help request.

Officer Rivas continued to assess and based on Julio Rodriguez' refusal to get on the ground, Officer Rivas believed Julio Rodriguez may attempt to flee into the rear yard and rearm himself. Officer Rivas closed distance with Julio Rodriguez and based on his assessment of the tactical situation, deployed his TASER in an attempt to de-escalate the encounter and compel Julio Rodriguez to comply with his commands to get on the ground.

The UOFRB noted that the tactical situation escalated very quickly and though Officer Rivas observed a bulge in Julio Rodriguez' pants pocket and based on his assessment formed the opinion the bulge was a handgun, he did not communicate his observation to Officer Rodriguez. Additionally, the UOFRB opined Officers Rivas' overall lack of communication to Officer Rodriguez of his assessments of the rapidly evolving tactical situation and his intended tactical responses were deficient.

Time – Upon Officer Rivas' viewing of the social media video, Officer Rivas and Rodriguez proceeded to drive over to the area of Avenue 43 and Griffin Avenue. Officers discussed the criminal activity in the area as well as the possibility of there being a suspect armed with a gun. Upon their arrival to the area, they observed Julio Rodriguez in front of 4302 Griffin Avenue and conducted a pedestrian stop for curfew and narcotics violations. Once Officer Rivas initiated verbal contact with Julio Rodriguez, the incident rapidly escalated when Officer Rivas observed a bulge in Julio Rodriguez's front right pocket and asked him if he could search Julio Rodriguez. Officer Rivas upon forming the opinion that the bulge in Julio Rodriguez' pants pocket was a handgun, attempted to give Julio Rodriguez commands to place his hands on his back and grasp a hold of Julio Rodriguez. However, Julio Rodriguez placed his hand on the object in this pants pocket and fled from Officers Rivas and Rodriguez.

Officers Rivas and Rodriguez followed Julio Rodriguez in foot pursuit north on Griffin Avenue. The UOFRB considered the 528 feet covered during the foot pursuit in approximately 25 seconds. During the foot pursuit, Officer Rivas utilized his hand-held police radio to attempt to broadcast that he and Officer Rodriguez were in foot pursuit, their location, the suspected crime, and the description of the suspect. Upon Officer Rivas turning west towards the driveway of 4415 Griffin Avenue, he observed Julio Rodriguez reach into his pants pocket, retrieve a handgun, and raise his right arm extended towards Officer Rivas while holding a handgun. Officer Rivas assessed the imminent threat presented by Julio Rodriguez' actions, subsequently resulting in an OIS.

The UOFRB noted that Officers Rivas and Rodriguez conducted a self-initiated pedestrian stop on Julio Rodriguez and there did not appear to be exigency. The UOFRB considered that there appeared to be sufficient time to formulate additional tactical plans and request additional resources. However, the UOFRB considered that once Officers Rivas and Rodriguez conducted their pedestrian stop of Julio Rodriguez, Julio Rodriguez' actions escalated the incident and led to a dynamic and rapidly evolving tactical situation which culminated in an OIS. The UOFRB considered that the investigation determined that four tenths of a second elapsed from when Julio Rodriguez began his upward extended arm movement while holding the handgun to when Officer Rivas discharged his service pistol. After the OIS, the UOFRB noted there appeared to be sufficient time for Officer Rivas to provide a complete Use of Force Warning when he deployed his TASER.

Redeployment and/or Containment – As Julio Rodriguez fled north on Griffin Avenue, Officers Rivas and Rodriguez continued after him in foot pursuit while

attempting to maintain visual contact and request additional resources to assist with containment and eventual apprehension. Officer Rivas attempted to broadcast the foot pursuit, location, direction of travel, suspected crime, and Julio Rodriguez' description. Officer Rivas requested additional resources to respond to assist with containment. Following the OIS, Officer Rivas redeployed and proceeded to approach and close distance on Julio Rodriguez based on his fear that Julio Rodriguez would attempt to flee into the rear yard of the residence and rearm himself with the handgun he had thrown. Officer Rivas believed Julio Rodriguez presented a danger to the residents at the location as well as for him and his partner.

Immediately following the OIS, Officer Rodriguez took cover behind a parked vehicle and attempted to communicate with Officer Rivas who was focused on Julio Rodriguez. Officer Rodriguez broadcast a help call and proceeded to redeploy to the west sidewalk of Griffin Avenue in an attempt to locate an address for the residence while maintaining line of sight with Officer Rivas who had approached Julio Rodriguez. Officer Rodriguez once again redeployed and moved west up the driveway of the residence in order to provide lethal cover for Officer Rivas as Officer Rivas handcuffed Julio Rodriguez.

The UOFRB noted although Officers Rivas and Rodriguez stated they had discussed apprehension versus containment as part of their overall tactical discussions during foot pursuits, there was some confusion between the two officers regarding the tactical concept due to their lack of communication. The UOFRB considered Officer Rivas requested additional resources, but did not request a perimeter to be established. The UOFRB noted Julio Rodriguez fled suddenly without warning and Officers Rivas and Rodriguez were forced to react to Julio Rodriguez' actions.

Other Resources – Officer Rivas utilized a fictitious social media profile to monitor gang and criminal activity in the communities that made up Northeast Area. Officer Rivas additionally attempted to request additional resources while in foot pursuit of Julio Rodriguez. Officer Rodriguez later broadcast a help call in order to have additional resources respond as soon as possible to their location.

Officer Rivas deployed a TASER, based on Julio Rodriguez refusing to comply with commands to place himself on the ground. Upon Officer Rivas' deployment of the TASER and warning that Julio Rodriguez would be "tased," Julio Rodriguez elected to comply with Officer Rivas' commands to place himself on the ground. Officer Rivas utilized the TASER as a de-escalation tool to compel Julio Rodriguez to comply with commands, so he could be handcuffed and taken into custody. Upon the arrival of additional resources, Officers Rivas and Moyers while searching the rear yard of 4415 Griffin Avenue for the handgun Julio Rodriguez had thrown, discussed requesting a "gun dog" to respond to the location. Officer Moyers located the handgun in the rear yard prior to a "gun dog" being required.

Upon Julio Rodriguez complaint of stomach pain and nausea while seated in Officer Roman's police vehicle, Officer Roman immediately, without delay requested a Rescue Ambulance (RA) to evaluate the level of Julio Rodriguez' medical distress.

The UOFRB noted there was sufficient time prior to the encounter for Officers Rivas and Rodriguez to notify a supervisor and additional resources considering they were outside their division of responsibility and were attempting to locate a suspect armed with a handgun. The UOFRB noted the initiative and creative approach of Officer Rivas in utilizing a fictitious social media profile to monitor crime. However, Officer Rivas did not follow Department policy as required.

Lines of Communication – Officers Rivas and Rodriguez initially established lines of communication with each other while discussing their basic tactical plans as well as on the way to Avenue 43 and Griffin Avenue. Officer Rivas and Rodriguez discussed the gang and criminal activity in the area as well the fact that Officer Rivas had knowledge of a possible suspect armed with a handgun at the location. Upon the arrival of Officers Rivas and Rodriguez in front of 4302 Griffin Avenue, Officer Rivas immediately established lines of communication with Julio Rodriguez as Officers Rivas and Rodriguez approached the east sidewalk of Griffin Avenue.

As Officer Rivas established verbal contact with Julio Rodriguez, he observed a bulge in Julio Rodriguez' right front pants pocket. As Officer Rivas asked if he could conduct a pat down search of Julio Rodriguez, Julio Rodriguez placed his right hand down on his right front pants pocket. Officer Rivas commanded Julio Rodriguez not to reach for the object and then commanded Julio Rodriguez to put his hands behind his back as Julio Rodriguez fled on foot north on Griffin Avenue. Officer Rivas attempted to establish lines of communication with additional resources in the area when he attempted to broadcast the foot pursuit, location, direction of travel, crime committed, and suspect description.

As Officer Rivas moved west towards the driveway of 4415 Griffin Avenue, Officer Rivas commanded Julio Rodriguez to put his hands up just prior to the OIS. Immediately following the OIS, Officer Rodriguez attempted to establish lines of communication with Officer Rivas to confirm an OIS had occurred. Officer Rodriguez established lines of communication with CD and additional resources by broadcasting a shots fired, officer needs help request. Officer Rivas as he approached west up the driveway towards Julio Rodriguez, provided numerous commands to Julio Rodriguez to place himself on the ground to which Julio Rodriguez refused to comply. Officer Rivas eventually deployed his TASER and warned Julio Rodriguez if he did not get on the ground he would be "tased." After Officer Rivas' warning, Julio Rodriguez immediately complied with the command and placed himself on the ground and was handcuffed without incident.

Officers Rivas and Rodriguez established lines of communication with Officers Moyers and Roman as they arrived on scene and determined that Officer Roman would take over communications and custody of Julio Rodriguez, while Officers Rivas and Moyers attempted to locate the outstanding handgun that had been

thrown by Julio Rodriguez. Officer Rodriguez moved to the street and directed additional resources to the location.

The UOFRB noted, and the Chief concurred, that Officers Rivas and Rodriguez should have utilized the time they were afforded to devise a more thorough tactical plan utilizing additional resources earlier. However, the officers attempted to open lines of communication with Julio Rodriguez, and based on Julio Rodriguez' sudden and escalating actions in response to Officer Rivas' observations of a bulge in Julio Rodriguez' right front pants pocket, reacted to a swiftly evolving tactical scenario in which officers were required to adapt their tactics to Julio Rodriguez' actions. Officer Rivas attempted to continue to establish open lines of communication with Julio Rodriguez by providing clear commands to put his hands behind his back and get on the ground in order to have Julio Rodriguez surrender peacefully without the use of any force. Julio Rodriguez did not comply with commands until after the OIS when Officer Rivas deployed his TASER and warned Julio Rodriguez that Officer Rivas would utilize the TASER if Julio Rodriguez did not get on the ground.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1 Tactical Planning/Communication (Substantial Deviation, without Justification – Officers Rivas and Rodriguez)

Officers must approach every contact, whether a consensual encounter or a lawful detention, with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).

In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves:

- *Advising the primary officer of any critical occurrences or safety issues (e.g., movement within the target vehicle, someone approaching outside the primary officer's field of vision, possible crossfire situations, etc.),*
- *Avoid inappropriate interruptions, and*
- *Avoid giving directions which conflict with those given by the primary officer. Only one person, usually the primary officer, gives the commands, unless a specific situation calls for another officer to issue a command (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).*

Officers Rivas and Rodriguez failed to discuss, develop, and communicate a clear and thorough tactical plan related to their response to a suspect possibly armed with handgun.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their

overall safety by their recognition of an unsafe situation and by working together collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, it was Officers Rivas and Rodriguez' third time working together, and they discussed general tactical concepts related to their response to various tactical situations which included contact and cover roles, foot pursuits, communication roles including Code Six broadcasts, and de-escalation strategies. Additionally, Officers Rivas and Rodriguez determined that if one officer made contact with an individual, the other officer would be the communications officer and would place them Code Six. The UOFRB noted that upon Officer Rivas obtaining knowledge of a possible suspect armed with a handgun at Avenue 43 and Griffin Avenue, he proceeded to the location and only advised Officer Rodriguez that there was possibly a suspect armed with a handgun.

The UOFRB was critical of Officer Rivas' reluctance to communicate to Officer Rodriguez of the information he obtained and failure to take the time the officers had to formulate a more thorough plan on confronting a possible suspect armed with a handgun. The UOFRB noted Officers Rivas and Rodriguez discussed the high gang and narcotics activity that occurred in the area of Avenue 43 and Griffin Avenue as well as their tactical plan to request additional resources if they encountered a suspect armed with a handgun. The UOFRB considered Officers Rivas and Rodriguez did not notify a supervisor, even though Avenue 43 and Griffin Avenue was located in Hollenbeck Area, and that they did not request any additional resources prior to their approach of a suspect possibly armed with a handgun. Additionally, the UOFRB noted the lack of communication between Officers Rivas and Rodriguez from the beginning to the end of the encounter.

On their approach to the scene, Officers Rivas and Rodriguez both observed Julio Rodriguez on the east sidewalk of Griffin Avenue speaking to the occupant of a dark colored vehicle. However, neither officers communicated the reason for their pedestrian stop to each other which led to both officers forming similar, but slightly different reasonable suspicions for the stop. The UOFRB noted that the lack of planning and communication by Officers Rivas and Rodriguez led to poor tactics as the officers contacted Julio Rodriguez and a casual method of approach. As Officer Rivas was engaged in verbal contact with Julio Rodriguez, he observed a bulge in Julio Rodriguez' front right pant pocket and opined that Julio Rodriguez was the same individual he had observed in the social media video he had viewed prior to the encounter. The UOFRB noted Officer Rivas did not communicate with Officer Rodriguez what he observed and his opinion that Julio Rodriguez was armed with a handgun and proceeded to follow after Julio Rodriguez as he fled north on Griffin Avenue.

The UOFRB considered that Officer Rivas was an experienced officer with approximately five years as a police officer while Officer Rodriguez was still a probationary officer with approximately nine months of experience. The UOFRB

was critical of Officer Rivas's role in the lack of tactical planning and communication prior to and during the incident. The UOFRB opined Officer Rivas did not take responsibility, as the more experienced and senior officer, to engage his partner in developing a clear tactical plan including approaching a possibly armed suspect, contact and cover roles, foot pursuits, apprehension versus containment, and the importance of communication throughout an incident. Additionally, the UOFRB considered that though Officer Rodriguez was a probationary officer, he was in the final phase of his training and the Department's expectation was that he would communicate with his partner to develop a better plan or clarify if he is unsure of the tactical plan. The UOFRB noted the lack of tactical planning and communication led to confusion between Officers Rivas and Rodriguez regarding whether they were in apprehension mode or containment mode during the foot pursuit of Julio Rodriguez.

The UOFRB considered that immediately following the OIS, Officer Rodriguez attempted to communicate with Officer Rivas to determine if an OIS had just occurred. However, as Officer Rivas began to move forward and approach Julio Rodriguez, Officers Rivas and Rodriguez did not communicate their intentions which led to a difference in their approach as Officer Rivas moved forward and closed distance while Officer Rodriguez, while utilizing cover, attempted to find an address to broadcast a more precise location for responding units.

The UOFRB was critical of the lack of tactical communication between the officers which provided confusion in their tactical approach and created a tactically disadvantageous situation.

Officers Rivas and Rodriguez approached the tactical situation from different perspectives, leading to tactical decisions made independently of each other, and ultimately led to various tactical issues arising from their lack of tactical planning and communication.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred that Officers Rivas and Rodriguez' lack of tactical planning and communication was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Debriefing Point No. 2 Code Six (Substantial Deviation, without Justification – Officers Rivas and Rodriguez)

When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call.

Units on "Code Six" status shall remain available for reassignment to priority calls by monitoring their radio frequencies. A unit on "Code Six" status may indicate to the dispatcher additional circumstances which will make the unit unavailable for assignment to a priority call. These circumstances may include:

- *Suspect in custody;*
- *Primary unit at a crime scene; and/or,*
- *Required at a backup, assistance, or help location.*

Note: *The unit shall notify the dispatcher as soon as it is again available for radio calls (Los Angeles Police Department Manual, Volume 4, Section 120.40).*

The purpose of broadcasting a Code Six location is to advise CD and officers in the area of the officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

Officers Rivas and Rodriguez did not advise CD of their location prior to engaging in a pedestrian stop and did not go Code Six until after the OIS had occurred.

The UOFRB noted that both officers were familiar with the area, including the gang and narcotics activity they had both observed in prior incidents. However, due to their lack of communication, neither officer verified that one of them had broadcast they were Code Six and their location. The UOFRB noted due to a lack of planning, there was confusion between Officer Rivas and Rodriguez on who would be communicating and broadcasting their Code Six location. The UOFRB considered that due to Officers Rivas and Rodriguez not placing themselves Code Six, and Officer Rivas attempted foot pursuit broadcast not making it out over the frequency, the first broadcast to CD and additional resources in the area, occurred after the OIS had already occurred.

The UOFRB noted that Officers Rivas and Rodriguez had sufficient time to broadcast their Code Six location, as well as any other relevant information, prior to making contact with Julio Rodriguez. The UOFRB noted Officers Rivas and Rodriguez were conducting a self-initiated pedestrian stop and the officers were not confronted immediately with circumstances or serious criminal activity which would have prevented them from broadcasting their Code Six location. The UOFRB was critical of the lack of communication between Officers Rivas and Rodriguez and their disregard for the importance with regards to officer safety, of providing their location and nature of their stop, considering they were outside their division of assignment.

Considering Officers Rivas and Rodriguez believed there was possibly a suspect armed with a handgun at the location, the Chief would have preferred that the officers broadcast they were Code Six in the area prior to exiting their police vehicle. Field investigations may escalate unexpectedly and may require the response of additional resources, as it did in this incident. Therefore, it is essential that officers provide their location and the nature of their investigation, to maintain officer safety, and in order to keep surrounding resources informed should such a situation arise where their response is required. Officers Rivas and Rodriguez' failure to

communicate their Code Six location and the nature of their investigation, placed them in a tactically disadvantages position.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred that Officers Rivas and Rodriguez' failure to broadcast their Code Six location when provided sufficient time to do so, was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Debriefing Point No. 3 Pedestrian Stop Tactics/Tactical Vehicle Deployment
(Substantial Deviation, without Justification – Officers Rivas and Rodriguez)

Officers must approach every contact, whether a consensual encounter or a lawful detention, with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack.

Proper safety tactics demand that officers exit their patrol vehicles to conduct pedestrian contacts. Approaching and conducting the contact on foot allows officers:

- *to devote complete concentration to observing the pedestrian (rather than dividing attention between driving and observation)*
- *better access to weapons and a clear line of fire if necessary*
- *better visibility of the pedestrian*
- *better mobility (rather than being trapped in a vehicle)*
- *the ability to detain and search an individual, if necessary*
greater advantage if a foot pursuit should occur (California Commission on Peace Officer Standards and Training, Learning Domain 21).

Patrol officers must select a safe and tactical position for the placement of the patrol unit (California Commission on Peace Officers Standards and Training, Learning Domain No. 22).

Officer Rivas and Rodriguez stopped their police vehicle in the center median, facing south on Griffin Avenue, adjacent to the where Julio Rodriguez was standing on the east sidewalk and speaking with the occupant of an unknown dark colored vehicle in the northbound lane of Griffin Avenue.

When arriving at an emergency radio call or conducting enforcement stops, the positioning of the police vehicle is critical for providing officers a tactically advantageous position. Officers must not be complacent or overconfident during enforcement stops given that complacency causes officers to ignore danger signs and compromises officer safety.

In this case, as Officers Rivas and Rodriguez approached the area of Avenue 43 and Griffin Avenue and proceeded to stop and park their vehicle in the center median lane, facing south on Griffin Avenue. Officer Rivas did not activate the

police vehicles emergency lights or utilize the lighting equipment on the police vehicle. The UOFRB noted both Officer Rivas and Rodriguez articulated reasonable suspicion and determined they would be stopping Julio Rodriguez who was standing on the east sidewalk of Griffin Avenue parallel to where they parked their vehicle, for curfew and narcotics violations.

The UOFRB was critical of Officer Rivas and Rodriguez's somewhat complacent manner in exiting their police vehicle, and relaxed approach towards Julio Rodriguez who they believed may possibly be armed with a handgun. The UOFRB noted that Officers Rivas and Rodriguez both stopped in front of and then continued forward past the front of an unknown dark colored vehicle, whose occupant they observed conversing with Julio Rodriguez. The UOFRB opined the occupant of the vehicle and the vehicle itself was a potential threat which the officers neglected to consider. The UOFRB noted the officers conducted a pedestrian stop on Julio Rodriguez; however, they approached Julio Rodriguez as if they were conducting a consensual encounter. The UOFRB opined the officers were overly casual in their mindset and tactical approach, especially in their failure to tactically position or utilize their police vehicle for cover while conducting a pedestrian stop on a suspect they believed was possibly armed with a handgun. The UOFRB considered that Officers Rivas and Rodriguez did not properly position themselves to triangulate on Julio Rodriguez due to Officer Rodriguez' concern with the unknown dark colored vehicle that had backed up south and parked along the east curb of Griffin Avenue.

In this case, the Chief would have preferred Officer Rivas and Rodriguez approach their pedestrian stop on a suspect possibly armed with a handgun with the mindset and mentality of maintaining officer safety. Conducting enforcement stops are inherently the most dangerous duties conducted by officers. Officers should handle all enforcement stop with caution and always keep in mind that no enforcement stop is "routine." The complacency that comes with everyday enforcement stops leads to officers compromising their safety and not approaching each stop with the proper mindset of utilizing approved Department training to increase officer safety.

Therefore, officer safety is of paramount importance and it is essential that officers utilize enforcement stop tactics designed to enhance officer safety. Officers Rivas and Rodriguez' failure to utilize their police vehicle and proper pedestrian stop tactics, placed them in a tactically disadvantageous position.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officers Rivas and Rodriguez' failure to utilize appropriate pedestrian stop tactics, including the utilization of their police vehicle to achieve a tactically advantageous position, was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Debriefing Point No. 4 Approaching a Possibly Armed Suspect (Substantial Deviation, without Justification – Officer Rivas)

There is an equation that saves lives: Distance + Cover = Time. Time gives officers options. Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources. Entering the suspect's space prematurely may force the suspect to take action, ultimately escalating the situation. Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate, or any similar object that prevents the assailant from reaching the officer (Los Angeles Police Department Training Bulletin, Weapons Other Than Firearms, Volume XLVI, Issue 3, October 2017).

Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack (California Commission on Peace Officer Standards and Training, Learning Domain 21).

Officer Rivas, upon exiting his police vehicle to conduct a pedestrian stop of Julio Rodriguez, closed distance and approached Julio Rodriguez whom Officer Rivas believed was possibly armed with a handgun.

When officers encounter a suspect that they believe is armed with a weapon, they are trained to place the suspect into a high-risk prone position to facilitate a safe approach to take the suspect into custody. This tactic provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands, and approach the suspect from a position of advantage.

The UOFRB considered Officer Rivas immediately approached and initiated verbal contact with Julio Rodriguez, who he believed was possibly armed with a handgun without the benefit of any cover. The UOFRB was critical of Officer Rivas, who upon observing a bulge in Julio Rodriguez's right front pants pocket and believing Julio Rodriguez was the suspect he had observed in the social media video he had viewed prior to the encounter, did not communicate his observations to Officer Rodriguez, but instead attempted to initiate physical contact and grab a hold of Julio Rodriguez. After following Julio Rodriguez in foot pursuit to the driveway of 4415 Griffin Avenue, Officer Rivas was involved in an OIS. The UOFRB noted that immediately following the OIS, Officer Rivas without the benefit of cover, proceeded to approach Julio Rodriguez while commanding Julio Rodriguez to get on the ground. The UOFRB considered Officer Rivas observed Julio Rodriguez throw a handgun into the rear yard of the residence immediately following the OIS.

The Chief would have preferred Officers Rivas utilize cover when conducting his pedestrian stop of Julio Rodriguez which would have enabled him to confront a possibly armed suspect while simultaneously minimizing his exposure. The Chief would have preferred Officer Rivas maintain his distance, utilize available cover, and

communicate to Officer Rodriguez of his observation of a possible handgun in Julio Rodriguez' right front pants pocket. Immediately following the OIS, the Chief would have preferred Officer Rivas once again maintain his distance, utilize available cover, communicate with his Officer Rodriguez and wait for the arrival of additional resources prior to approaching Julio Rodriguez, who may have been possibly armed with additional weapons. Officer Rivas' failure to utilize available cover and approach a possibly armed suspect in a safe and coordinated manner placed him and Officer Rodriguez in a poor tactical position and compromised their safety.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officer Rivas' failure to utilize available cover and approach towards an armed suspect, placed himself and Officer Rodriguez in a tactically disadvantageous position, and therefore was a substantial deviation, without justification, from approved Department tactical training. In order to enhance future performance, the Chief will direct this topic be discussed during the Tactical Debrief.

Additional Tactical Debrief Topics

Conducting an Investigation Outside of Assigned Area Without Supervisory Approval –The investigation revealed Officer Rivas gained knowledge of a possible man with a gun in the area of Griffin Ave and Avenue 43 (Hollenbeck Area) through monitoring social media utilizing a fictitious profile. This location was outside of their assigned geographic area (Northeast Area). Officer Rivas advised Officer Rodriguez of the possibility of there being a man with a gun in that area and made the decision to proceed to the location. The officers did not notify a supervisor of their investigative follow-up to check the location. Absent any exigency in this incident, officers are reminded to notify a supervisor when leaving their division to conduct a follow-up investigation. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Additional Unit Request – The investigation revealed Officer Rivas advised his partner, Officer Rodriguez, of a possible man with a gun in the area of Griffin Ave and Avenue 43 based on a social media video. Officer Rivas stated that based on the time of the uploaded video, his belief was that the likelihood of an individual posting a video of that nature remaining the area were slim; therefore, Officer Rivas did not request additional units to respond. Officers Rivas and Rodriguez are reminded to continuously utilize all available resources to increase their tactical advantage when approaching tactical situations where weapons may be present. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Running with Service Pistol Drawn – The investigation revealed that following Julio Rodriguez fleeing on foot north on Griffin Ave, Officer Rivas and Rodriguez drew their service pistols and proceeded to pursue after Julio Rodriguez on foot until the OIS. The investigation revealed the foot pursuit covered approximately 528 feet and lasted approximately 25 seconds. Although this was a rapidly unfolding incident involving a suspect who appeared to be possibly armed, Officers Rivas and

Rodriguez are reminded that there is a heightened concern for an unintentional discharge when running with a service pistol drawn. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Holding Radio in One Hand and Service Pistol in Other – Officer Rodriguez provided lethal cover for Officer Rivas while holding his service pistol in his right hand as he held his hand-held police radio in his left hand as Officer Rivas proceeded to handcuff Julio Rodriguez. Officer Rodriguez is reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Foot Pursuit Broadcast – Officer Rivas attempted to broadcast that he was in foot pursuit, his location, and a backup request while in foot pursuit of Julio Rodriguez but was ultimately unsuccessful. Officer Rodriguez, the trailing officer in the foot pursuit, did not assume a communications role or attempt to broadcast. Officer Rodriguez is reminded of the importance of the communications officer in a foot pursuit and providing the location of the officers and other relevant information to ensure that responding units are able to respond in a tactically safe and effective manner. When feasible, this is best accomplished prior to taking police action. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Holding Service Pistol in one Hand and TASER in Other – The investigation revealed that Officer Rivas, while holding his service pistol in his right hand, drew his TASER with his left hand and activated the red dot sight of the TASER in an effort to de-escalate the encounter. Officer Rivas is reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand, due to the potential for an accidental or negligent discharge. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Use of Force Warning – The investigation revealed while directing Julio Rodriguez to get on the ground multiple times, Officer Rivas drew his TASER and advised he was going to “tase” Julio Rodriguez. However, Officer Rivas did not provide a complete Use of Force Warning which would have included an advisement of the potential consequences of the use of force, including the possibility of injury due to the TASER being deployed. Officers are reminded of the importance of providing a complete Use of Force Warning, when feasible, prior to utilizing less-lethal control devices. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Contact and Cover Roles/Tactics – As Officer Rivas continued to give Julio Rodriguez commands to get down on the ground, he approached and closed the distance to J. Rodriguez. Officer Rodriguez provided an updated location to CD as he stood on the sidewalk just south of the driveway to the residence. Officer

Rodriguez began approaching Julio Rodriguez in a lethal cover role shortly after Officer Rivas, who had already closed distance and was in close proximity to Julio Rodriguez, holstered his service pistol and TASER and began initiating physical contact with Julio Rodriguez to handcuff him. Though officers are granted discretion and flexibility during fluid and dynamic tactical incidents, the Chief would have preferred Officer Rivas had communicated to Officer Rodriguez his observations and intention to close distance and at that time switch his designated role from lethal cover officer to a handcuffing role. Officers Rivas and Rodriguez are reminded, when feasible, to communicate any changes of their tactical plan and roles with their partner officers in order to optimize coordination and officer safety. Additionally, the officers are reminded to utilize the concept of contact and cover, during which one officer initiates contact while the other officer is the lethal cover officer. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

Situational Awareness (Did not Know Location/Wrong Location Given) –

Communications Division requested a better location immediately following Officer Rodriguez' shots fired, officer needs help broadcast. Officer Rodriguez broadcast, "Avenue 43 and Griffin Avenue, just west of the liquor store." Officers Rivas and Rodriguez were located at 4415 Griffin Avenue, which is north of Avenue 43 on the west side of Griffin Avenue. Officer Rodriguez' broadcast indicating an incorrect location, which caused confusion for responding units and delayed their arrival. Although Officer Rodriguez provided the correct location during a subsequent broadcast, Officer Rodriguez is reminded of the importance of knowing his correct location at all times and accurately broadcasting all pertinent information when requesting help. In order to enhance future performance, the Chief directed that this be a topic of discussion during the Tactical Debrief.

- **Command and Control**

Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.

Command and Control is a process where designated officers use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct officers and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and

make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).

Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).

The investigation revealed that Sergeant Borjas was the first supervisor to arrive at the scene. Upon his arrival at scene, Sergeant Borjas declared himself the IC and began assessing the scene and establishing containment of the incident. Sergeant Borjas determined that an OIS had occurred and requested an additional supervisor respond to the scene while directing on scene officers to contain and secure the crime scene. Sergeant Borjas established a CP at Avenue 43 and Griffin Avenue and after briefing Sergeant Flores on the situation, directed him to separate and monitor Officer Rivas. Additionally, Sergeant Borjas directed Sergeant Flores to administer a PSS to Officer Rivas. Sergeant Borjas maintained his role as the IC until he was relieved by Lieutenant Lozano at which time Sergeant Borjas took over the monitoring of Officer Rodriguez until he was relieved by Detective Chavarria. Sergeant Borjas continued to assist the IC and maintain his role in overseeing the containment of the crime scene and the general area. Additionally, Sergeant Borjas took possession of Officer Rodriguez' BWV until it was relinquished to FID investigators.

Sergeant Flores was the second supervisor to arrive at the OIS scene upon a second supervisor being requested by Sergeant Borjas. After being briefed and directed to take over monitoring and separating duties for Officer Rivas by Sergeant Borjas, Sergeant Flores walked Officer Rivas out of the crime scene to his police vehicle. Sergeant Flores admonished Officer Rivas not to discuss the incident, directed him to turn off his BWV, and took possession of Officer Rivas' BWV until it was relinquished to FID investigators. Sergeant Flores administered a PSS to Officer Rivas and transported him to the Northeast Community Police Station where he monitored Officer Rivas until he was relieved by Sergeant Gomez.

Lieutenant Lozano arrived at scene and declared himself the IC, relieving Sergeant Borjas. Lieutenant Lozano was briefed by Sergeant Borjas regarding the details of the incident and coordinated with Sergeant Borjas to verify the crime scene was contained and the appropriate resources had been requested. Lieutenant Lozano admonished Officer Rodriguez not to discuss the incident and directed Detective

Chavarria to assume monitoring of Officer Rodriguez. Lieutenant Lozano ensured the proper notifications were conducted and continued to provide oversight and management of the resources on scene to maintain proper containment of the crime scene.

Detective Chavarria assumed monitoring of Officer Rodriguez from Lieutenant Lozano. Detective Chavarria directed Officer Rodriguez to turn off his BWV camera and relinquish it to Sergeant Borjas. Detective Chavarria transported Officer Rodriguez to Northeast Community Police Station, where they remained until Officer Rodriguez was interviewed by FID investigators.

The UOFRB noted that all supervisors responded to scene after the OIS had occurred and the tactical situation had concluded. The UOFRB noted they would have preferred Sergeant Borjas take a more active leadership role with regards to his urgency in identifying the involved officers, and overseeing the separation and monitoring of those involved officers once he had determined the tactical situation was no longer active. UOFRB determined, and the Chief concurred, that while there were identified areas for improvement Sergeant Borjas actions, with regard to protocols subsequent to a categorical use of force, did not significantly deviate from approved Department supervisory training.

The actions of Sergeants Borjas and Flores, and Detective Chavarria, were consistent with Department supervisory training and the Chief's expectations of a supervisor during a critical incident.

The actions of Lieutenant Lozano were consistent with Department supervisory training and the Chief's expectations of a watch commander during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the UOFRB determined, and the Chief concurred that Officers Rivas and Rodriguez's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

Although it was determined that Sergeant Borjas would not receive formal findings, the Chief believed that he would benefit from attending the Tactical Debrief to discuss this rapid and dynamic incident in its entirety to enhance future performance.

Therefore, the Chief directed that Sergeant Borjas, and Officers Rivas and Rodriguez to attend a Tactical Debrief and that the specific identified topics are discussed.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control; and,
- Lethal Force.

General Training Update (GTU)

- On January 16, 2020, Officers Rivas and Rodriguez attended a General Training Update (GTU). All mandatory topics were covered including the Force Option Simulator.

Drawing/Exhibiting

- Department policy relative to drawing and exhibiting a firearm is: *"An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified"* (Los Angeles Police Department Manual, Volume No. 1, Section 556.80)

Officer Rivas

According to Officer Rivas, after he made verbal contact with Julio Rodriguez, he observed the bulge in Julio Rodriguez' pants pocket. Officer Rivas attempted to inquire what the bulge was at which time Julio Rodriguez immediately reached down, clenched the object, and took off running. Based on Officer Rivas' observation of Julio Rodriguez actions in response to Officer Rivas' inquiry, Officer Rivas believed that the bulge he observed was a handgun. Officer Rivas drew his service pistol based on his belief Julio Rodriguez was armed with a handgun and the tactical situation could lead to the use of deadly force.

Officer Rivas recalled, *And when I asked him about -- when I originally or first saw the item or the bulge in his pocket, I asked him, you know, "What's that in your pocket?" And he just immediately reached down, clenched it, and then took off running.⁷⁷ But as soon as he grabbed it and reached and, you know, held onto it and then ran, then I believed that it was a gun.⁷⁸*

⁷⁷ Officer Rivas, 1st Interview, Page 19, lines 16-20.

⁷⁸ *Id.*, Page 19, Lines 24-25 and Page 20, Line 1.

No, it was just a bulge of -- some item sticking out of his pants -- or his waistband.⁷⁹ I unholstered after he had ran -- after he had clenched down on his waistband and ran -- ran northbound on Griffin.⁸⁰

Officer Rodriguez

First Occurrence

According to Officer Rodriguez, he was positioned just south of his partner on the east sidewalk of Griffin Avenue as Officer Rivas continued his verbal contact with Julio Rodriguez. Officer Rodriguez observed Julio Rodriguez suddenly pick the front waistband of his pants up and Officer Rodriguez believed Julio Rodriguez possibly could have been reaching for a handgun since in his experience, handguns are mainly carried by suspects in the front waistband area. Additionally, Officer Rodriguez observed Officer Rivas draw his service pistol, which led Officer Rodriguez to believe that Officer Rivas, who had a better angle, had also observed a weapon. Based on his observations, and his belief Julio Rodriguez may be reaching for a weapon or an item to inflict harm on him or his partner, Officer Rodriguez drew his service pistol.

Officer Rodriguez recalled, My partner had his gun unholstered from what I could see. My gun was unholstered along -- my finger along the side of the frame. I'm not muzzling my partner, following behind my partner.⁸¹

As soon as the foot pursuit kicks off... That's when I see my partner holster, so then I holster, because he probably has the angle or observation that -- or a better angle where I cannot see. So at that point it was a tactical situation where I could unholster where my finger was along the side of the frame, not muzzling my partner.⁸²

And my partner kind of look -- gives me like a look back like let's go, and I see my partner unholster, which I do too. That was pretty much the communication right there.⁸³

Just based on the area and, like I said, the incident I saw the week before with the gun being in the store and the victim down a couple months back. I began to unholster on a tactical situation and assisting my fellow partner just in case he needed assistance and try to -- and during the foot pursuit try to keep a reasonable -

⁷⁹ *Id.*, Page 20, Lines 5-7.

⁸⁰ *Id.*, Page 26, Lines 9-11.

⁸¹ Officer Rodriguez, 1st Interview, Page 15, Lines 16-20.

⁸² *Id.*, Page 27, lines 7-8 and 10-16.

⁸³ *Id.*, Page 31, Lines 9-12.

- like trying to keep close to him, so, if anything, I could render aid in this foot pursuit.⁸⁴

If I could recollect a little better, I want to say the suspect was running and might have picked up his pants at one point, which possibly could have been reaching for a gun. Guns are mainly put in the front of the waistband.⁸⁵

And as he was running, I saw him pick the front waistband of his pants up. I can't remember which hand it was specifically. But at that point I saw my partner unholster, which made me want to unholster too, because I wasn't sure what was on the other side, because his back was facing me running towards that direction. So that created the action of me unholstering, not knowing what could -- what object could possibly be right there in the front of his pants... Led me to believe that he possibly may be reaching for a weapon or an item to inflict harm on me or my partner, which then I unholstered at a low ready position.⁸⁶

Just based on the totality of the circumstances, high gang area, partner unholstering, immediately observed the suspect picking up his pants towards the front of his waistband kind of all clued me in on the gun that was found -- recovered the week before, the shooting that kind of happened, all kind of went through my mind. And that made me want to unholster just in case action needed to be taken, but at a low ready position.⁸⁷

Second Occurrence

According to Officer Rodriguez, immediately following the OIS, he holstered his service pistol to prevent a negligent discharge. Officer Rodriguez utilized his hand-held police radio to broadcast a shots fired, officer needs help request. Officer Rodriguez had knowledge that Officer Rivas observed a handgun and Julio Rodriguez was still unhandcuffed. Officer Rodriguez simultaneously drew his service pistol as he completed his broadcast since Julio Rodriguez was not in custody and Officer Rodriguez' belief that the situation may escalate to the point where deadly force may be justified.

Officer Rodriguez recalled, So there's an extra step to that too. So as I'm running, doing that, I didn't want to, you know, have a negligent discharge on my firearm, so then I go ahead and holster real quick, pull out my radio, put out the help call, and then I unholster very quickly, almost simultaneously.⁸⁸

⁸⁴ *Id.*, Page 31, Lines 18-25 and Page 32, Line 1.

⁸⁵ *Id.*, Page 32, Lines 10-14.

⁸⁶ *Id.*, Page 33, Lines 6-15 and Lines 22-25.

⁸⁷ *Id.*, Page 35, Lines 13-21.

⁸⁸ *Id.*, 2nd Interview, Page 6, lines 1-6.

Because the suspect was still not in custody and I was trying to, you know, get a better angle. You know, I unholstered because the suspect was not in custody.⁸⁹

I -- I holstered my weapon, simultaneously pulling out my radio to avoid a negligent discharge, put out the help call. As I'm putting out the help call, I'm already unholstering at a low-ready. I'm approaching my partner, closing distance overall, and then we create a triangular position as we both closed distance into the suspect.⁹⁰

It's the threat is still pretty high because he's not yet in custody. My partner observed a gun. You know, and he -- he was unhandcuffed. So until we put handcuffs on him and further investigate, then that's when my weapon would be reholstered.⁹¹

The UOFRB conducted a diligent and individual assessment of each officer's articulation regarding their decision to draw and exhibit their service pistols. The UOFRB conducted a thorough evaluation of the reasonableness of Officers Rivas' Drawing/Exhibiting of his service pistol. The UOFRB noted that Julio Rodriguez was armed with a handgun and was fleeing in the dark toward an unknown location. The actions of Julio Rodriguez presented a potential deadly threat to the officers and the surrounding community.

The UOFRB considered Officer Rivas had knowledge that there was a substantial likelihood of a suspect being armed with a handgun near 4302 Griffin Avenue based on him viewing a social media video on his fictitious social media profile. The UOFRB noted that after approaching Julio Rodriguez and initiating verbal contact with Julio Rodriguez, Officer Rivas observed a bulge in Julio Rodriguez' right front pants pocket and began to suspect Julio Rodriguez was the same individual he observed in the social media video he viewed prior to the encounter. The UOFRB considered as Officer Rivas inquired as to what was in Julio Rodriguez' pocket, Julio Rodriguez reached down and grabbed the object with his right hand. Officer Rivas attempted to grab Julio Rodriguez and commanded him to place his hands behind his back. However, Julio Rodriguez while grabbing the object in his right front pants pocket, began to flee north on Griffin Avenue on foot.

The UOFRB noted, based on Julio Rodriguez' reaction and movements following Officer Rivas' inquiring about the bulge in Julio Rodriguez' pockets, Officer Rivas formed the opinion that Julio Rodriguez was armed with a handgun and Officer Rivas drew his service pistol due to the inherent danger presented by Julio Rodriguez' possession of a handgun as well as the danger to the surrounding community which included mostly residential structures.

⁸⁹ *Id.*, Page 6, Lines 11-14.

⁹⁰ *Id.*, Page 7, Lines 13-20.

⁹¹ *Id.*, Page 9, Lines 10-15.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officer Rivas, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the Chief found Officer Rivas' Drawing/Exhibiting to be In-Policy, No Further Action.

The UOFRB also conducted a thorough evaluation of the reasonableness of Officer Rodriguez' Drawing/Exhibiting of his service pistol.

The UOFRB noted Officer Rodriguez, based on his discussion with Officer Rivas prior to approaching the area of Avenue 43 and Griffin Avenue, had knowledge that there could possibly be a suspect in the area that was armed with a handgun. Additionally, Officer Rodriguez based on his response the previous week to the same intersection for a suspect who had a handgun, had knowledge that the area was frequented by gang members who often were in possession of handguns. The UOFRB considered as Officer Rivas was engaged verbally with Julio Rodriguez, Officer Rodriguez observed Julio Rodriguez suddenly pick the front waistband of his pants up and Officer Rodriguez believed Julio Rodriguez was possibly reaching for a handgun based on his prior experience of generally observing suspects concealing handguns in their front waistband area.

The UOFRB noted Officer Rodriguez observed Officer Rivas immediately draw his service pistol as Officer Rivas began to follow after Julio Rodriguez who had begun fleeing north on Griffin Avenue on foot. Officer Rivas drawing his service pistol further reinforced Officer Rodriguez' belief that Julio Rodriguez was reaching for a handgun based on Officer Rodriguez' perception that Officer Rivas was in a better position to observe Julio Rodriguez' and observed a threat to the officers. Officer Rodriguez drew his service pistol as he followed after Officer Rivas and Julio Rodriguez based on his belief that Julio Rodriguez was reaching for a handgun with the intention of inflicting harm upon both Officer Rivas and himself.

The UOFRB noted, Officer Rodriguez holstered his service pistol briefly immediately following the OIS to utilize his hand-held police radio to broadcast a shots fired officer needs help request. As Officer Rivas began to approach Julio Rodriguez, Officer Rodriguez immediately drew his service pistol a second time based on his belief Julio Rodriguez was possibly still armed with a handgun and was not handcuffed. The UOFRB noted that as Officer Rodriguez initially began following after Officer Rivas and Julio Rodriguez, Officer Rodriguez believed Julio Rodriguez was possibly armed with a handgun. Additionally, an OIS had just occurred, Julio Rodriguez was not handcuffed, and Officer Rodriguez believed Julio Rodriguez presented a potentially lethal threat based on Julio Rodriguez still possibly being in possession of a handgun.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Rodriguez, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the Chief found Officer Rodriguez' Drawing/Exhibiting to be In-Policy, No Further Action.

Use of Force – General⁹²

- *It is the policy of this Department that officers may use only that force which is “objectively reasonable” to:*
 - *Defend themselves;*
 - *Defend others;*
 - *Effect an arrest or detention;*
 - *Prevent escape; or,*
 - *Overcome resistance*
- (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

Factors Used to Determine Objective Reasonableness⁹³

The Department examines reasonableness using Graham v. Connor and the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience, in the same situation, based on the totality of the circumstances know to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of the circumstances shall account for occasions when officers may be forced to make quick judgements about using force.

In determining the appropriate level of force, officer shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*

⁹² Provisional Special Order No. 1, 2020 – Policy on the Use of Force - Revised, was adopted by the Department on January 2, 2020, prior to this incident.

⁹³ LAPD Manual, Volume 1, Section 556.10 and Provisional Special Order No. 1 – 2020, dated January 2, 2020.

- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
 - *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
 - *The availability of other resources;*
 - *The training and experience of the officer;*
 - *The proximity or access of weapons to the subject;*
 - *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
 - *The environmental factors and/or other exigent circumstances.*
- (Los Angeles Police Department Manual, Volume 1, Section 556.10)*

Use of Force – Deadly⁹⁴

It is the policy of this Department that deadly force shall be used only when necessary in defense of human life. Specifically, deadly force shall be used only to:

- *Defend against an imminent threat of death or serious bodily injury to the officer or to another person; or*
 - *Apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.*
- Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.*

An officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person. (Los Angeles Police Department Manual, Volume 1, Section 556.10)

Factors Used to Determine Whether Deadly Force Was Necessary⁹⁵

The Department examines the necessity of deadly force by evaluating each situation in light of the particular circumstances of each case, and whether other available resources and techniques were reasonably safe and feasible to an objectively

⁹⁴ LAPD Manual, Volume 1, Section 556.10 and Provisional Special Order No. 1 – 2020, dated January 2, 2020.

⁹⁵ LAPD Manual, Volume 1, Section 556.10 and Provisional Special Order No. 1 – 2020, dated January 2, 2020.

reasonable officer. (Los Angeles Police Department Manual, Volume 1, Section 556.10)

Officer Rivas – .40 caliber, 1 round fired from a distance of approximately 32 feet in a westerly direction.

According to Officer Rivas as he approached the driveway of 4415 Griffin Avenue, he observed Julio Rodriguez in the driveway. Officer Rivas observed Julio Rodriguez' body in a bladed position as Julio Rodriguez reached into his waistband, extended his hand up, while holding what Officer Rivas believed was a handgun towards his direction. Officer Rivas' observations led him to believe Julio Rodriguez was going fire the handgun at him and believed his life was in danger. Based on his observations of Julio Rodriguez removing a handgun from his waistband and extending his arm out towards Officer Rivas, Officer Rivas discharged one round from his service pistol while aiming for Julio Rodriguez' center mass in order to defend his life from the imminent lethal threat presented by Julio Rodriguez. Officer Rivas, while continually assessing, observed Julio Rodriguez continue raising his arm upward and throw the handgun over Julio Rodriguez' head into the rear yard of 4415 Griffin Avenue. Officer Rivas observing that Julio Rodriguez no longer had a handgun in his possession and determined Julio Rodriguez was no longer an imminent lethal threat.

Officer Rivas recalled, *And as soon as I rounded that car and saw him in the driveway, I saw him reaching to his waistband. His body was kind of bladed with me. And as he reached into his waistband, he extended his hand up, holding what I saw was a gun towards my direction. I fired one round, and he tossed the gun over the fence.*⁹⁶

*When I make that corner, I see him removing the handgun from his waistband, and he's coming up in an upward motion towards my direction... It was like a full extend - extended out. Yeah, it was not bent.*⁹⁷

*I felt like my life was in danger. I felt like he was going to throw -- or I mean I felt like he was going to shoot a round at me at that very moment.*⁹⁸

*So he's bladed facing northbound, and I'm directly -- I'm facing him in a westbound direction. He pulls his hand out, extends it towards me. I see the gun and I take a, you know, a shooting platform. I extend both my hands out, and I aim for the center mass of his body and fire one round.*⁹⁹

⁹⁶ Officer Rivas, 1st Interview, Page 8, Lines 18-24.

⁹⁷ *Id.*, Page 23, Lines 9-12 and Lines 16-17.

⁹⁸ *Id.*, Page 21, Lines 4-7.

⁹⁹ *Id.*, Page 47, Lines 6-12.

*It was like -- he extended his arm out and then he tossed it over his head.*¹⁰⁰

*I thought he was going to shoot me... To me, it seemed like he fired -- or he threw it after I had fired the round.*¹⁰¹

*And then the actual OIS was dark, but I could make him out and make out the motion when he extended the gun towards my direction.*¹⁰²

*Just I want to reiterate the fact that I felt like my life was in danger and that when I saw the handgun extended toward me, I was scared, yeah.*¹⁰³

In this case, the UOFRB conducted a thorough review and analysis of the reasonableness of Officer Rivas' use of deadly force. The UOFRB took into consideration that Officer Rivas had prior knowledge through monitoring a fictitious social media profile, that there was possibly an individual armed with a handgun in the immediate area in front of 4302 Griffin Avenue. Additionally, the UOFRB noted Officer Rivas' familiarity and knowledge of the area including the various criminal gangs who frequent the area, the types of crimes committed in the area, and first-hand experience arresting an "Avenues" criminal street gang member for possession of a firearm just a week prior to this encounter at the intersection of Avenue 43 and Griffin Avenue.

Officer Rivas advised Officer Rodriguez there may possibly be a man with a handgun near the intersection of Avenue 43 and Griffin Avenue and proceeded to drive to the location. Officers Rivas and Rodriguez observed Julio Rodriguez standing in front of 4302 Griffin Avenue, speaking to the occupants of a dark colored sedan. Officers Rivas and Rodriguez conducted a pedestrian stop for curfew and narcotics violations; however, Officer Rivas did not immediately recognize Julio Rodriguez as the individual in the social media video who had been armed with a handgun. The UOFRB noted as Officer Rivas initiated verbal contact with Julio Rodriguez, both Officer Rivas and Julio Rodriguez appeared to be calm and complacent in their approach.

The UOFRB considered that Officer Rivas observed a bulge in Julio Rodriguez' front right pocket as Julio Rodriguez stepped towards him and extended his hand. The UOFRB noted that as Officer Rivas inquired to Julio Rodriguez of the contents of his pocket, Julio Rodriguez' demeanor began to shift and become more evasive as Julio Rodriguez stated, "Why, what do I have?" The UOFRB considered as Officer Rivas asked Julio Rodriguez if he could "pat him down," Julio Rodriguez began to significantly escalate the encounter by placing his right hand down on his right front

¹⁰⁰ *Id.*, Page 49, Lines 12-13.

¹⁰¹ *Id.*, Page 52, Lines 3-4 and Lines 13-14.

¹⁰² *Id.*, Page 55, Lines 14-16.

¹⁰³ *Id.*, Page 59, Lines 9-12.

pants pocket as Officer Rivas commanded, "Don't reach for it." Based on Julio Rodriguez' reaction and movements, as well as his experience and expertise, Officer Rivas believed Julio Rodriguez was armed with a handgun and was possibly the individual he had observed in the social media video he had viewed prior to the encounter.

The UOFRB noted, as Officer Rivas attempted to grab a hold of Julio Rodriguez and commanded Julio Rodriguez to put his hands behind his back, Julio Rodriguez further escalated the encounter by turning away from Officer Rivas and fleeing north on Griffin Avenue. Officer Rivas once again commanded Julio Rodriguez to put his hands behind his back as he drew his service pistol and engaged in foot pursuit of Julio Rodriguez north on Griffin Ave. The UOFRB noted that Julio Rodriguez refused to comply with Officer Rivas' commands and continued to flee. The UOFRB considered Officer Rivas' attempt to broadcast his foot pursuit, including his location, description of the suspect, and the crime the suspect was wanted for.

The UOFRB noted that Officer Rivas followed after Julio Rodriguez in foot pursuit, and as he made his turn to go west toward the driveway of 4415 Griffin Avenue towards a residence, Officer Rivas was standing in apron of the driveway without the benefit of cover. However, the UOFRB considered when Officer Rivas approached the driveway and commanded Julio Rodriguez to put his hands up, Officer Rivas observed Julio Rodriguez, with his body bladed, reach into his waistband, and raise his arm extended towards Officer Rivas with a handgun in his hand. Based on Officer Rivas' observations of an imminent lethal threat presented by the upward extended movement of Julio Rodriguez' arm while armed with a handgun in the direction of Officer Rivas, as well as his fear for his life, Officer Rivas discharged one round from his service pistol.

The UOFRB noted, Officer Rivas immediately assessed the tactical situation and Julio Rodriguez' actions immediately following the OIS and observed that Julio Rodriguez had thrown his handgun, was stationary with his hands raised, and was no longer a lethal threat. The UOFRB noted that Officer Rivas was continually assessing as he approached Julio Rodriguez and had discharged a single round when he observed an imminent lethal threat presented by Julio Rodriguez' movements. The UOFRB opined Officer Rivas' continual assessment of the tactical situation prevented unnecessary rounds to be fired once the imminent lethal threat no longer presented itself. The UOFRB noted the investigation determined that approximately four tenths of a second elapsed from the moment Julio Rodriguez began his upward arm movement while armed with a handgun to Officer Rivas firing his service pistol.

In his overall assessment of this encounter, the Chief determined that although there were tactical deficiencies throughout the encounter, it was the actions taken by Julio Rodriguez, including his refusal to comply with clear direct commands, which escalated the encounter and led to a foot pursuit. Julio Rodriguez was running through the community while armed with a handgun. Julio Rodriguez' actions posed a serious threat to the safety of the public, to which Officer Rivas and Rodriguez

responded to by engaging in the foot pursuit. Julio Rodriguez had ample opportunity to comply and surrender to the officers prior to running into the gated driveway of the residence. As Officer Rivas approached the driveway of 4415 Griffin Avenue, Julio Rodriguez' actions of reaching into his waistband area, drawing a handgun, and raising his extended arm while armed in with the handgun in Officer Rivas' direction, further escalated the encounter and was a clear and discernable imminent lethal threat. It was necessary for Officer Rivas to discharge his service pistol in defense of his life based on the imminent lethal threat presented by Julio Rodriguez' actions.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officer Rivas, would reasonably believe Julio Rodriguez' actions presented an imminent threat of death or serious bodily injury and that the use of deadly force would be objectively reasonable and necessary.

Therefore, the Chief found Officer Rivas' Use of Lethal Force to be In-Policy, No Further Action.

Additional/Equipment

- **Required Equipment** – The investigation revealed Officers Silva and Vargas, who responded to the help call, had their side-handle batons in their police vehicle and were not equipped with collapsible batons on their person. Captain Valois advised this issue was addressed with both Officers Silva and Vargas through the generation of SAIs and Informal Meetings. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.¹⁰⁴
- **Medical Treatment – Rendering Aid** – The investigation noted that following the OIS, Julio Rodriguez was not struck by gunfire. Officers Rivas and Rodriguez inquired if Julio Rodriguez was injured and made a thorough effort to determine if he had suffered any injuries. After Officer Roman took custody of Julio Rodriguez and placed Julio Rodriguez into the rear seat of his black and white police vehicle, Julio Rodriguez began to complain of stomach pain and feeling nauseous. Though Julio Rodriguez did not visibly appear in medical distress, Officer Roman immediately requested a RA to respond to assess Julio Rodriguez' medical condition and determine if he required further medical assistance. This is a laudable reflection of maturity by the officers to transition from a high stress tactical incident to that of conducting a medical assessment on Julio Rodriguez to determine if he needed medical assistance and later requesting medical personnel without delay when advised by Julio Rodriguez of possible medical distress.

¹⁰⁴ A review of the FID case package revealed Officer Rivas was equipped with his Hobble Restraint Device on his person.

- **Profanity** – The investigation revealed that just prior to initiating his foot pursuit of Julio Rodriguez, Officer Rivas utilized profanity. Immediately following the OIS and as Julio Rodriguez continued to be non-compliant as Officer Rivas provided repeated commands to get on the ground, Officer Rivas utilized profanity. Captain R. Valois, Serial No. 30129, Commanding Officer, Northeast Area, advised that this issue was addressed through the issuance of a Notice to Correct Deficiencies (NTC) and the generation of a Supervisory Action Item (SAI). These corrective actions were based on previous corrective action that were taken for Officer Rivas' use of profanity in previous incidents. The Commanding Officer of Operations Central Bureau (OCB) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action is necessary.
- **Notifications** – The investigation revealed, the IC, Lieutenant Lozano, did not notify the DOC of the OIS within the prescribed 30-minute time frame. Lieutenant Lozano arrived on scene at 23:30 hours; however, the official notification to the DOC from Lieutenant Lozano was not made until 0059 hours. Captain Valois advised this issue was addressed through the generation of a SAI and an Informal Meeting. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.
- **DICVS Activation** – The investigation revealed Officers Rivas and Rodriguez conducted a pedestrian stop of the suspect based on curfew and narcotics violations. However, Officers Rivas and Rodriguez did not activate the DICVS of their police vehicle prior to or during the encounter. An analysis by Northeast Area determined Officers Rivas had one DICVS non-compliance incident which occurred after this incident. Captain Valois advised this issue was addressed with both Officers Rivas and Rodriguez through the generation of SAIs and Informal Meetings. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.
- **Utilizing Personal Equipment to Access Information on Social Media Sites Without Prior Commanding Officer (CO) Approval** – The investigation revealed Officer Rivas conducted his own research of Department guides and notices regarding utilizing his personal cellular telephone to view information on social media websites while on duty. Based on his research, Officer Rivas did not believe that he needed to notify his CO or gain approval prior to utilizing his personal cellular telephone to monitor social media for criminal activity. However, the LAPD, Major Crimes Division, Social Media Users Guide, dated January 2015, under the Use of Personal Equipment heading, on Page No. 7, states: "Department personnel may use personal equipment to access information via social media sites when performing an authorized law enforcement mission with prior approval from the employees Commanding Officer." Captain Valois advised this issue was addressed with Officer Rivas through the generation of a SAI and Training. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

- **Body Worn Video Activation** – The investigation revealed Officer Rodriguez had a late BWV activation during the incident. An analysis by Northeast Area determined Officer Rodriguez had one prior BWV non-compliance incident. Captain Valois addressed this issue through the generation of a SAI and the issuance of an Employee Comment Sheet. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, the Chief deem no further action is necessary.

The investigation revealed that Officers Roman and Hosea did not have a full two-minute pre-activation buffer during the incident. An analysis by Northeast Area determined Officer Hosea had no prior BWV non-compliance incidents and Officer Roman had one prior administrative BWV non-compliance incident. Captain Valois addressed this issue with Officer Hosea through the generation of a SAI and divisional training and with Officer Roman through the generation of a SAI and informal meeting. The Commanding Officer of OCB and the Director of OO concurred with this action.

The Office of Operations conducted a random inspection of BWV assigned to Officers Rodriguez, Hosea, and Roman from August 16, 2020 through September 15, 2020, for compliance with timely BWV activations and full two-minute pre-activation buffers. The results of the inspections indicated all were in compliance.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS)** – Force Investigation Division investigators identified that there were 11 DICVS videos related to this incident. Each video was reviewed in its entirety by an FID investigator. The DICVS videos captured the officers' responses to the scene, and their post OIS activities. The DICVS of Officers Rivas and Rodriguez' police vehicle was not activated and did not capture audio or videos of the OIS.
- **Body Worn Video (BWV)** – Force Investigation Division investigators identified 31 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

Officer Rivas had his BWV camera on in buffer mode, as he initiated the pedestrian stop of Julio Rodriguez. Rivas' BWV captured the OIS. Officer Rivas turned off the BWV camera when he was directed to do so by Sergeant Flores.

Officer Rodriguez had his BWV camera on in buffer mode. He activated his BWV, one minute and forty-four seconds, after the contact with Julio Rodriguez began. Officer Rodriguez' BWV did not capture the OIS. Officer Rodriguez turned off his BWV camera when he was directed to do so by Detective Chavarria.

Officer Moyers' BWV captured the officers locating Julio Rodriguez' gun in the rear yard of 4415 Griffin Avenue.

Officers Roman and Vargas BWVs captured the officers' post OIS activities.

Sergeants Borjas and Flores, along with Officer Silva BWVs captured the sergeants' and officer's post-OIS command and control of the scene.

The remaining twenty-three BWV recordings captured officers responding Code Three to the scene and post OIS activities at the scene.

- **Outside Videos** – Force Investigation Division investigators obtained and reviewed two security camera videos from the Neighborhood Market, located at 4301 Griffin Avenue as well as from American Motor Trends, located at 4236 Griffin Avenue. Each of those videos were reviewed in detail and stored at Technical Investigation Division, Electronics Section for future reference.

Chief's Direction

- The Chief directed the Director of the Office of Constitutional Policing and Policy to complete a review of the LAPD Social Media User Guide. Based on developing and progressing technology and social media applications, the Department will conduct an evaluation of the best practices related to the use of social media, ensuring consistent and effective protocols are utilized. The Department will evaluate the most effective practices with regard to utilizing social media to aid in Department investigations in accordance with Federal and State laws, along with best practices while making use of technology to keep our communities and officers safe.

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INSPECTOR GENERAL REVIEW

Inspector General Analysis

Investigation Quality

- No significant issues of concern were identified in relation to investigation quality.

Training Issues

- No significant issues of concern were identified in relation to training.

Equipment Issues

- No significant issues of concern were identified in relation to equipment.

Detention

- Officer Rivas indicated that his initial detention of Julio Rodriguez was for the purpose of investigating narcotics and curfew violations (the latter applies to minors under the age of 18 years). No evidence was recovered to corroborate that Julio Rodriguez was using marijuana in public, and he was not a minor. However, Julio Rodriguez was at the location where Officer Rivas had gone to look for the person whom he had previously seen in possession of a pistol in an Instagram video, and Julio Rodriguez was wearing clothing consistent with that of the person depicted in the video. As such, there was an objective basis supporting the initial detention of Julio Rodriguez in this instance.

Tactical De-Escalation

- The performance of the officers involved in this case, especially with regard to Officer Rivas, was at odds with principles established by the Department's de-escalation training. The de-escalation concerns in this case include the following:

Planning

Regarding planning, de-escalation training states, "*Officers should attempt to arrive at scene with a coordinated approach based upon initial information and any pre-existing knowledge of the suspect(s) or the involved officers.*" As noted in the Chief's report, the UOFRB was critical of Officers Rodriguez and Rivas's general tactical plan, and it noted that the officers did not request any additional resources prior to attempting to stop a potentially armed suspect and did not notify a supervisor of the information they had obtained about a potentially armed suspect located outside their division of assignment. The OIG notes that this lack of appropriate planning precluded the officers from arriving on scene with "a coordinated approach based on initial information," and that it avoidably placed them at a significant tactical

disadvantage from the outset of the incident. The officers had ample opportunity to formulate a plan, including making appropriate notifications and requests to coordinate additional resources, but they failed to do so.

Assessment

Regarding assessment, de-escalation training states, *“Officers should continually assess the situation as circumstances change and new information is received.”* Despite Officer Rivas’s indication of his feeling that it was unlikely that the suspect whom he saw on Instagram would still be at the location where he (the suspect) was observed, the fact remains that attempting to locate this individual was the purpose of Officer Rivas’s response to the incident location. Upon observing Julio Rodriguez at that location, Officer Rivas did not appropriately assess the situation and recognize the potential for Julio Rodriguez to be the armed suspect in question. Once Officer Rivas formed the belief that Julio Rodriguez was indeed armed, his decisions to attempt to make physical contact with Rodriguez and then to pursue him in a tactically unsound manner did not reflect appropriate continual assessment as the circumstances developed.

Time

Regarding time, de-escalation training states, *“Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources.”* As previously noted, Officers Rodriguez and Rivas did not use available time to formulate an appropriate plan prior to contacting Julio Rodriguez. Nor did they take advantage of available time to request appropriate additional resources.

Redeployment and Containment

Regarding redeployment and containment, de-escalation training states, *“Redeployment and containment can afford officers the added benefit of time and distance while continuing to maintain control of the situation. The addition of time and distance may give officers the opportunity to re-assess, communicate, request additional resources, or deploy other tactics to reduce the likelihood of injury both to the public and officers while also mitigating any potential ongoing threats.”*

As noted in the Chief’s report, the UOFRB was critical of Officers Rodriguez and Rivas’s vehicle positioning and pedestrian stop tactics, which had the effect of placing the officers in a tactically disadvantageous position during their initial contact with Julio Rodriguez. The OIG considered that these noted concerns unduly exposed the officers to the threat of an armed assault by Julio Rodriguez and limited their ability to control him when he did not comply with their directions.

When Julio Rodriguez began to flee on foot, the officers’ ability to coordinate any containment was significantly limited by their prior failures to request additional

resources and to communicate to anyone where they were or what they were doing. Although Officer Rivas attempted to make a radio broadcast during the foot pursuit (the attempt was determined to be unsuccessful), his attempted broadcast did not include a request for officers to establish a perimeter to contain the fleeing suspect.

As the foot pursuit progressed, Officer Rivas lost sight of Julio Rodriguez when he (Julio Rodriguez) entered the driveway where the OIS ultimately occurred. Officer Rivas's decision to deploy into the mouth of the driveway as he continued his pursuit of Julio Rodriguez at that point placed him (Officer Rivas) at a significant tactical disadvantage by exposing him to the threat that he perceived Julio Rodriguez presented to him, which is the very threat that precipitated the OIS.¹⁰⁵

Other Resources

Regarding other resources, de-escalation training states that *"In the case of a tense or potentially dangerous encounter, requesting additional resources can provide officers with specialized expertise, personnel and tools to help control and contain an incident."*

Officers Rodriguez and Rivas did not request additional resources in advance of their encounter with Julio Rodriguez, about whom Officer Rivas had information indicating that he was potentially armed. This failure significantly limited any prospects the officers had of effectively controlling and containing the potentially dangerous suspect, and it avoidably left them at a tactical disadvantage throughout their encounter with that suspect.

Lines of Communication

Regarding lines of communication, de-escalation training states that *"Maintaining open lines of communication between officers and communicating effectively with a suspect are critically important when managing a tense or potentially dangerous encounter. Communication between officers can improve decision-making under tense circumstances and increase the effectiveness of coordinated actions. In addition, when a suspect observes that officers are prepared, well organized, professional, and working as a team, he or she may be deterred from attempting to flee, fight, or actively resist."*

¹⁰⁵ Department training regarding foot pursuit tactics includes the following language: "Every time an officer loses sight of a suspect during a foot pursuit, the danger to the officers increases significantly. Suspects have been known to lie in wait, or turn and fight without warning. Barriers such as walls and fences are ideal locations for a suspect to turn and attack an officer." In relation to this, the training identifies tactical considerations including, "Stop, look, and listen," "Slice the pie" when rounding a corner or at the end of a fence," and, "Utilize a 'quick peek' to provide a glimpse to what is on the other side of an obstacle/barrier." (Use of Force – Tactics Directive No. 3.2 Foot Pursuit Concepts).

The officers' efforts at communications were deficient throughout the lead-up to the OIS. Officer Rivas did not effectively communicate with Officer Rodriguez regarding the information he had received through Instagram, and neither of the officers informed anyone that they were traveling to the incident location in a neighboring geographical division to look for a potentially armed suspect. Furthermore, the officers did not place themselves Code-6 when they first contacted Julio Rodriguez. As with all of the failures to adhere to de-escalation training described above, these communications failures contributed to the officers' tactical disadvantage during their encounter with Julio Rodriguez and unduly increased the risk that the situation might escalate to the point where a use of force would occur.

Additional

- Following the OIS, a warrantless search of the gated area into which Julio Rodriguez had thrown his weapon was conducted, and the weapon was ultimately located. The investigation did not establish that there was an exception to the requirement for a search warrant in conducting this premises search, such as exigent circumstances or consent.

BWV and DICVS Policy Compliance

SERIAL	NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
43818	Officer Andrew Rodriguez	No	Yes	No	No	No
41657	Officer Gabriel Rivas	Yes	Yes	Yes	No	No
43216	Officer Charles Hosea	Yes	No	Yes	N/A	N/A
35686	Officer Joseph Geraci	Yes	No	Yes	N/A	N/A
37309	Officer Jonathan Roman	Yes	No	Yes	N/A	N/A

Inspector General Recommendations

Tactics

- The OIG concurs with the Chief's finding that Officers Rodriguez and Rivas's tactics warrant a finding of Administrative Disapproval. In addition to the tactical issues reported by the Chief, and the noted concerns regarding adherence to de-escalation training, the OIG considered the following:

Utilization of Cover

Cover is defined as any object or structure that will stop the opponent's bullets. Officers should attempt to move to and use available cover when involved in any tactical situation and especially when there are weapons involved. Officers should be aware of what items in their surrounding area can be used as cover and what

type of cover is required to stop specific rounds (handgun, shotgun, or rifle rounds) (Los Angeles Police Department, Basic Firearms Manual, July 2015).

Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate or any similar object that prevents the assailant from reaching the officer. If the suspect is contained and does not pose an immediate threat to officers, the public or himself/herself, time is our best tool. Time allows more opportunity to communicate with the suspect and helps to calm the situation (Los Angeles Police Department, Training Bulletin, Volume XLVI, Issue 3, Weapons Other Than Firearms, October 2017).

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing his or her own exposure. As a result of such utilization, the overall effectiveness of a tactical incident can be enhanced, and an officer's tactical options can also be expanded.

At the time of the OIS, Officer Rivas did not have the benefit of cover. Rather than taking advantage of potential sources of cover, such as vehicles parked in the street, Officer Rivas entered the mouth of the driveway where he saw Julio Rodriguez run to, and he thereby exposed himself to the potential threat of being shot at by Julio Rodriguez at the time the OIS occurred.

Officer Rivas was asked by FID, "Did -- as you approached the location where the OIS occurred, could you see exactly where he [Julio Rodriguez] was or did you have cover or could you describe a little bit in more detail how [you] made that approach to that location?"¹⁰⁶ Officer Rivas replied, "I was running in the street just to the right of the cars that were parked on the street, and I originally made the turn after I had lost him in the -- in his turn -- the suspect. And once I saw the turn, I had realized that he was directly in front of a locked gate and some trash -- or a gate and some trash cans and -- yeah. [...] When I make that corner, I see him removing the handgun from his waistband, and he's coming up in an upward motion towards my direction."¹⁰⁷

Officer Rivas's failure to utilize cover, thereby unnecessarily exposing himself to an armed suspect, represented an unjustified and substantial deviation from applicable Department tactical training.

Drawing and Exhibiting

- The OIG concurs with the Chief's findings.

¹⁰⁶ Officer Rivas, 1st Interview, Page 21, Line 22 to Page 22, Line 1.

¹⁰⁷ *Id.*, Page 22, Lines 2-8 and Page 23, Lines 9-12.

Lethal Use of Force

- *Out of Policy, Officer Rivas.*
- The preamble to the Department's Use of Force policy includes the statement that *"Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so."*¹⁰⁸

The Department's policy specific to the use of deadly force, as was in effect on the date of this incident, indicates that the "Department examines the necessity of deadly force by evaluating each situation in light of the particular circumstances of each case, and whether other available resources and techniques were reasonably safe and feasible to an objectively reasonable officer. The Department shall also consider the totality of the circumstances, including the officer's tactics and decisions leading up to the use of deadly force."¹⁰⁹

In its evaluation of the necessity of the use of deadly force by Officer Rivas, the OIG considered both the circumstances facing Officer Rivas at the time the OIS occurred and the series of tactical decisions that were made leading up to the OIS.

The OIG noted that Officer Rivas used deadly force when he observed Julio Rodriguez taking actions with a gun that caused him (Officer Rivas) to perceive that the gun was pointed at him. However, as indicated above, the dangerous and tactically disadvantageous situation under which this perceived threat occurred arose following a series of decisions by Officer Rivas that deviated from Department training regarding tactics and tactical de-escalation. That series of deficient decisions significantly contributed to the circumstances in which Officer Rivas felt compelled to use deadly force.

Despite him having ample opportunity to do so, Officer Rivas did not comport with policy requiring that officers attempt to control an incident by using time, distance, communication, and available resources in an effort to de-escalate the situation. In light of this, the totality of the circumstances did not necessitate Officer Rivas's use of deadly force. Accordingly, the OIG recommends that the Commission find Officer Rivas's use of deadly force to be Out of Policy.



MARK P. SMITH
Inspector General

¹⁰⁸ Policy on the Use of Force – Revised. Approved by the Board of Police Commissioners on December 17, 2019.

¹⁰⁹ *Id.*